# THE NORTH CAROLINA GENERAL STATUTES AND THE EQUAL RIGHTS AMENDMENT

LEGISLATIVE SERVICES OFFICE
January, 1975

PROPOSED AMENDMENT

# Ninety-second Congress of the United States of America

## AT THE SECOND SESSION

*Begun and held at the City of Washington on Tuesday, the eighteenth day of January, one thousand nine hundred and seventy-two*

## Joint Resolution

**Proposing an amendment to the Constitution of the United States relative to equal rights for men and women.**

*Resolved by the Senate and House of Representatives of the United States of America in Congress assembled (two-thirds of each House concurring therein)*, That the following article is proposed as an amendment to the Constitution of the United States, which shall be valid to all intents and purposes as part of the Constitution when ratified by the legislatures of three-fourths of the several States within seven years from the date of its submission by the Congress:

"ARTICLE —

"SECTION 1. Equality of rights under the law shall not be denied or abridged by the United States or by any State on account of sex.

"SEC. 2. The Congress shall have the power to enforce, by appropriate legislation, the provisions of this article.

"SEC. 3. This amendment shall take effect two years after the date of ratification."

Carl Albert

*Speaker of the House of Representatives.*

Edward Kennedy

~~Vice President of the United States and~~
*President of the Senate pro Tempore*

This presentation attempts to identify the provisions of North Carolina statutory law that may be altered if the United States Constitution is amended to include: "Equality of rights under the law shall not be denied or abridged by the United States or by any State on account of sex." The list is not exhaustive, but it should illustrate the kinds of statutory language that may be regarded as discriminatory if the Equal Rights Amendment is ratified.

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Durward Gunnells III
Legislative Services Office
January 21, 1975

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**§ 12-3. Rules for construction of statutes.**—In the construction of all statutes the following rules shall be observed, unless such construction would be inconsistent with the manifest intent of the General Assembly, or repugnant to the context of the same statute, that is to say:

(1) Singular and Plural Number, Masculine Gender, etc.—Every word importing the singular number only shall extend and be applied to several persons or things, as well as to one person or thing; and every word importing the plural number only shall extend and be applied to one person or thing, as well as to several persons or things; and every word importing the masculine gender only shall extend and be applied to females as well as to males, unless the context clearly shows to the contrary.

Related Statutes:

§ 110-56

§ 159-1(c)

**§ 1-223. Against married women.**—In an action brought by or against a married woman, judgment may be given against her for costs or damages or both, in the same manner as against other persons, to be levied and collected solely out of her separate estate. (Rev., s. 563; C. S., s. 603.)

**§ 1-349. Procedure where plaintiff is under disability.**—If the party by or for whom the land is claimed in the suit is a married woman, minor, or insane person, such value is deemed to be real estate, and shall be disposed of as the court considers proper for the benefit of the persons interested therein. (1871-2, c. 147, s. 14; Code, s. 486; Rev., s. 665; C. S., s. 708.)

**§ 1-389. Allotted to widow or minor children on death of homesteader.**—If a person entitled to a homestead exemption dies without the homestead having been set apart, his widow, if he leaves no children, or his child or children under the age of 18 years, if he leaves such, may proceed to have the homestead exemption laid off by petition. If the widow or children have failed to have the exemption set apart in the manner provided, then in an action brought by his personal representatives to subject the realty of the decedent to the payment of debts and charges of administration, it is the duty of the court to appoint three disinterested freeholders to set apart to such widow, child or children a homestead exemption under metes and bounds in the lands of the decedent. The freeholders shall under their hands and seals make return of the same to the court, which shall be registered in the same manner as homestead exemptions. (1868-9, c. 137, s. 10; Code, s. 514; 1893, c. 332; Rev., s. 707; C. S., s. 748; 1971, c. 1231, s. 1.)

**§ 6-21. Costs allowed either party or apportioned in discretion of court.**—Costs in the following matters shall be taxed against either party, or apportioned among the parties, in the discretion of the court:

(1) Application for year's support, for widow or children.

(2) Caveats to wills and any action or proceeding which may require the construction of any will or trust agreement, or fix the rights and duties of parties thereunder; provided, however, that in any caveat proceeding under this subdivision, if the court finds that the proceeding is without substantial merit, the court may disallow attorneys' fees for the attorneys for the caveators.

(3) Habeas corpus; and the court shall direct what officer shall tax the costs thereof.

(4) In actions for divorce or alimony; and the court may both before and after judgment make such order respecting the payment of such costs as may be incurred by the wife, either by the husband or by her from her separate estate, as may be just.

(5) Application for the establishment, alteration or discontinuance of a public road, cartway or ferry. The board of county commissioners may order the costs incurred before them paid in their discretion.

**§ 7A-104. Disqualification; waiver; removal; when judge acts.**—(a) The clerk shall not exercise any judicial powers in relation to any estate, proceeding, or civil action:

(1) If he has, or claims to have, an interest by distribution, by will, or as creditor or otherwise;

(2) If he is so related to any person having or claiming such an interest that he would, by reason of such relationship, be disqualified as a juror, but the disqualification on this ground ceases unless the objection is made at the first hearing of the matter before him;

(3) If he or his wife is a party or a subscribing witness to any deed of conveyance, testamentary paper or nuncupative will, but this disqualification ceases when such deed, testamentary paper, or will has been finally admitted to probate by another clerk, or before the judge of the superior court;

(4) If he or his wife is named as executor or trustee in any testamentary or other paper, but this disqualification ceases when the will or other paper is finally admitted to probate by another clerk, or before the judge of the superior court. The clerk may renounce the executorship and endorse the renunciation on the will or on some paper attached thereto, before it is propounded for probate, in which case the renunciation must be recorded with the will if it is admitted to probate.

The parties may waive the disqualification specified in subdivisions (1), (2), and (3) of this subsection, and upon the filing of such written waiver, the clerk shall act as in other cases.

**§ 7A-292. Additional powers of magistrates.**—In addition to the jurisdiction and powers assigned in this Chapter to the magistrate in civil and criminal actions, each magistrate has the following additional powers:

(1) To administer oaths;
(2) To punish for contempt;
(3) When authorized by the chief district judge, to take depositions and examinations before trial;
(4) To issue subpoenas and capiases valid throughout the county;
(5) To take affidavits for the verification of pleadings;
(6) To issue writs of habeas corpus ad testificandum, as provided in G.S. 17-41;
(7) To assign a year's allowance to the surviving spouse and a child's allowance to the children as provided in Chapter 30, Article 4, of the General Statutes;
(8) To take acknowledgments of instruments, as provided in G.S. 47-1;
(9) To perform the marriage ceremony, as provided in G.S. 51-1;
(10) To take acknowledgment of a written contract or separation agreement between husband and wife, and to make a private examination of the wife, as provided in G.S. 52-6;
(11) Repealed by Session Laws 1973, c. 503, s. 9, effective October 1, 1973.
(12) To assess contribution for damages or for work done on a dam, canal, or ditch, as provided in G.S. 156-15; and
(13) Repealed by Session Laws 1973, c. 503, s. 9, effective October 1, 1973.

(1965, c. 310, s. 1; 1967, c. 691, s. 25; 1971, c. 377, s. 17; 1973, c. 503, s. 9.)

**§ 8-56. Husband and wife as witnesses in civil action.**—In any trial or inquiry in any suit, action or proceeding in any court, or before any person having, by law or consent of parties, authority to examine witnesses or hear evidence, the husband or wife of any party thereto, or of any person in whose behalf any such suit, action or proceeding is brought, prosecuted, opposed or defended, shall, except as herein stated, be competent and compellable to give evidence, as any other witness on behalf of any party to such suit, action or proceeding. Nothing herein shall render any husband or wife competent or compellable to give evidence for or against the other in any action or proceeding in consequence of adultery, or in any action or proceeding for divorce on account of adultery; or in any action or proceeding for or on account of criminal conversation, except that in actions of criminal conversation brought by the husband in which the character of the wife is assailed she shall be a competent witness to testify in refutation of such charges: Provided, however, that in all such actions and proceedings, the husband or wife shall be competent to prove, and may be required to prove, the fact of marriage. No husband or wife shall be compellable to disclose any confidential communication made by one to the other during their marriage. (1866, c. 43, ss. 3, 4; C. C. P., s. 341; Code, s. 588; Rev., s. 1636; 1919, c. 18; C. S., s. 1801; 1945, c. 635.)

## ARTICLE 7.

### *Rape and Kindred Offenses.*

**§ 14-21. Rape; punishment in the first and second degree.** — Every person who ravishes and carnally knows any female of the age of 12 years or more by force and against her will, or who unlawfully and carnally knows and abuses any female child under the age of 12 years, shall be guilty of rape, and upon conviction, shall be punished as follows:

(a) First-Degree Rape —

(1) If the person guilty of rape is more than 16 years of age, and the rape victim is a virtuous female child under the age of 12 years, the punishment shall be death; or

(2) If the person guilty of rape is more than 16 years of age, and the rape victim had her resistance overcome or her submission procured by the use of a deadly weapon, or by the infliction of serious bodily injury to her, the punishment shall be death.

(b) Second-Degree Rape — Any other offense of rape defined in this section shall be a lesser-included offense of rape in the first degree and shall be punished by imprisonment in the State's prison for life, or for a term of years, in the discretion of the court. (18 Eliz., c. 7; R. C., c. 34, s. 5; 1868-9, c. 167, s. 2; Code, s. 1101; Rev., s. 3637; 1917, c. 29; C. S., s. 4204; 1949, c. 299, s. 4; 1973, c. 1201, s. 2.)

Related Statute : §14-17

§ **14-22. Punishment for assault with intent to commit rape.**—Every person convicted of an assault with intent to commit a rape upon the body of any female shall be imprisoned in the State's prison not less than one nor more than fifteen years. (1823, c. 1229, P. R.; R. C., c. 107, s. 44; 1868-9, c. 167, s. 3; Code, s 1102; Rev., s. 3638; 1917, c. 162, s. 1; C. S., s 4205.)

§ **14-23. Emission not necessary to constitute rape and buggery.**—It shall not be necessary upon the trial of any indictment for the offenses of rape, carnally knowing and abusing any female child under twelve years old, and buggery, to prove the actual emission of seed in order to constitute the offense, but the offense shall be completed upon proof of penetration only. (1860-1, c. 30; Code, s. 1105; Rev., s. 3639; 1917, c. 29; C. S., s. 4206.)

§ **14-24. Obtaining carnal knowledge of married woman by personating husband.**—If any person shall have carnal knowledge of any married woman by fraud in personating her husband, he shall be guilty of a felony, and shall be punished by imprisonment in the State's prison at hard labor for not less than ten nor more than twenty years. (1881, c. 89, s. 1; Code, s. 1103; Rev., s. 3624; C. S., s. 4207.)

§ **14-25. Attempted carnal knowledge of married woman by personating husband.**—Every person convicted of an assault upon any married woman, with intent to have knowledge of her by fraud in personating her husband, shall be punished by imprisonment in the State's prison at hard labor for not less than five nor more than fifteen years. (1881, c. 89, s. 2; Code, s. 1104; Rev., s. 3625; C. S., s. 4208.)

**§ 14-26. Obtaining carnal knowledge of virtuous girls between twelve and sixteen years old.**—If any male person shall carnally know or abuse any female child, over twelve and under sixteen years of age, who has never before had sexual intercourse with any person, he shall be guilty of a felony and shall be fined or imprisoned in the discretion of the court; and any female person who shall carnally know any male child under the age of sixteen years shall be guilty of a misdemeanor and shall be fined or imprisoned in the discretion of the court: Provided, that if the offenders shall be married or shall thereafter marry, such marriage shall be a bar to further prosecution. (1895, c. 295; Rev., s. 3348 1917, c. 29; C. S., s. 4209; 1923, c. 140, s. 1.)

**§ 14-27. Jurisdiction of court; offenders classed as delinquents.**—All persons charged with a violation of § 14-26 under the age of sixteen years shall be subject to the jurisdiction of the juvenile court and such other courts as may hereafter exercise such jurisdiction, and shall be classed as delinquents and not as felons: Provided, that where the offenders agree to marry, the consent of the parent shall not be necessary: Provided further, that any male person convicted of the violation of § 14-26 who is under eighteen (18) years of age, shall be guilty of a misdemeanor only. (1923, c. 140, s. 2; C. S., s. 4209 (a).)

**§ 14-33. Misdemeanor assaults, batteries, and affrays, simple and aggravated; punishments.** — (a) Any person who commits a simple assault or a simple assault and battery or participates in a simple affray is guilty of a misdemeanor punishable by a fine not to exceed fifty dollars ($50.00) or imprisonment for not more than 30 days.

(b) Unless his conduct is covered under some other provision of law providing greater punishment, any person who commits any assault, assault and battery, or affray is guilty of a misdemeanor punishable by a fine, imprisonment for not more than two years, or both such fine and imprisonment if, in the course of the assault, assault and battery, or affray, he:

(1) Inflicts, or attempts to inflict, serious injury upon another person or uses a deadly weapon; or
(2) Assaults a female, he being a male person over the age of 18 years; or
(3) Assaults a child under the age of 12 years; or
(4) Assaults a law-enforcement officer or a custodial officer of the State Department of Correction, while the officer is discharging or attempting to discharge a duty of his office. (1870-1, c. 43, s. 2; 1873-4, c. 176, s. 6; 1879, c. 92, ss. 2, 6; Code, s. 987; Rev., s. 3620; 1911, c. 193; C. S., s. 4215; 1933, c. 189; 1949, c. 298; 1969, c. 618, s. 1; 1971, c. 765, s. 2; 1973, c. 229, s. 4; c. 1413.)

**§ 14-43. Abduction of married women.**—If any male person shall abduct or elope with the wife of another, he shall be guilty of a felony, and upon conviction shall be imprisoned not less than one year nor more than ten years: provided, that the woman, since her marriage, has been an innocent and virtuous woman: Provided further, that no conviction shall be had upon the unsupported testimony of any such married woman. (1903, c. 362; Rev., s. 3360; C. S., s. 4225.)

## ARTICLE 11.

*Abortion and Kindred Offenses.*

**§ 14-44. Using drugs or instruments to destroy unborn child.**—If any person shall wilfully administer to any woman, either pregnant or quick with child, or prescribe for any such woman, or advise or procure any such woman to take any medicine, drug or other substance whatever, or shall use or employ any instrument or other means with intent thereby to destroy such child, he shall be guilty of a felony, and shall be imprisoned in the State's prison for not less than one year nor more than ten years, and be fined at the discretion of the court. (1881, c. 351, s. 1; Code, s. 975; Rev., s. 3618; C. S., s. 4226; 1967, c. 367, s. 1.)

**§ 14-45. Using drugs or instruments to produce miscarriage or injure pregnant woman.**—If any person shall administer to any pregnant woman, or prescribe for any such woman, or advise and procure such woman to take any medicine, drug or anything whatsoever, with intent thereby to procure the miscarriage of such woman, or to injure or destroy such woman, or shall use any instrument or application for any of the above purposes, he shall be guilty of a felony, and shall be imprisoned in the jail or State's prison for not less than one year nor more than five years and shall be fined, at the discretion of the court. (1881, c. 351, s. 2; Code, s. 976; Rev., s. 3619; C. S., s. 4227.)

**§ 14-45.1. When abortion not unlawful.**—(a) Notwithstanding any of the provisions of G.S. 14-44 and G.S. 14-45, it shall not be unlawful, during the first 20 weeks of a woman's pregnancy, to advise, procure, or cause a miscarriage or abortion when the procedure is performed by a physician licensed to practice medicine in North Carolina in a hospital or clinic certified by the Department of Human Resources to be a suitable facility for the performance of abortions.

(b) Notwithstanding any of the provisions of G.S. 14-44 and G.S. 14-45, it shall not be unlawful, after the twentieth week of a woman's pregnancy, to advise, procure or cause a miscarriage or abortion when the procedure is performed by a physician licensed to practice medicine in North Carolina in a hospital licensed by the Department of Human Resources, if there is substantial risk that continuance of the pregnancy would threaten the life or gravely impair the health of the woman.

(c) The Department of Human Resources shall prescribe and collect on an annual basis, from hospitals or clinics where abortions are performed, such representative samplings of statistical summary reports concerning the medical and demographic characteristics of the abortions provided for in this section as it shall deem to be in the public interest. Hospitals or clinics where abortions are performed shall be responsible for providing these statistical summary reports to the Department of Human Resources. The reports shall be for statistical purposes only and the confidentiality of the patient relationship shall be protected.

(d) The requirements of G.S. 130-43 are not applicable to abortions performed pursuant to this section.

(e) Nothing in this section shall require a physician licensed to practice medicine in North Carolina or any nurse who shall state an objection to abortion on moral, ethical, or religious grounds, to perform or participate in medical procedures which result in an abortion. The refusal of such physician to perform or participate in these medical procedures shall not be a basis for damages for such refusal, or for any disciplinary or any other recriminatory action against such physician.

(f) Nothing in this section shall require a hospital or other health care institution to perform an abortion or to provide abortion services. (1967, c. 367, s. 2; 1971, c. 383, ss. 1, 1½; 1973, c. 139; c. 476, s. 128; c. 711.)

**§ 14-46. Concealing birth of child.**—If any person shall, by secretly burying or otherwise disposing of the dead body of a newborn child, endeavor to conceal the birth of such child, such person shall be guilty of a felony, and punished by fine or imprisonment, or both, such imprisonment to be in the county jail or State's prison, at the discretion of the court: Provided, that the imprisonment in the State's prison shall in no case exceed a term of ten years: Provided further, that nothing in this section shall be construed to prevent the mother who may be guilty of the homicide of her child, from being prosecuted and punished for the same according to the principles of the common law. Any person aiding, counseling or abetting any woman in concealing the birth of her child shall be guilty of a misdemeanor. (21 Jac. I, c. 27; 43 Geo. III, c. 58, s. 3; 9 Geo. IV, c. 31, s. 14; 1818, c. 985, P. R.; R. C., c. 34, s. 28; 1883, c. 390; Code, s. 1004; Rev., s. 3623; C. S., s. 4228.)

**§ 14-48. Slandering innocent women.**—If any person shall attempt, in a wanton and malicious manner, to destroy the reputation of an innocent woman by words, written or spoken, which amount to a charge of incontinency, every person so offending shall be guilty of a misdemeanor punishable by a fine not to exceed five hundred dollars ($500.00), imprisonment for not more than six months, or both. (1879, c. 156; Code, s. 1113; Rev., s. 3640; C. S., s. 4230; 1969, c. 1224, s. 1.)

**§ 14-180. Seduction.**—If any man shall seduce an innocent and virtuous woman under promise of marriage, he shall be guilty of a felony, and upon conviction shall be fined or imprisoned at the discretion of the court, and may be imprisoned in the State prison not exceeding the term of five years: Provided, the unsupported testimony of the woman shall not be sufficient to convict: Provided further, that marriage between the parties shall be a bar to further prosecution hereunder. But when such marriage is relied upon by the defendant, it shall operate as to the costs of the case as a plea of nolo contendere, and the defendent shall be required to pay all the costs of the action or be liable to imprisonment for nonpayment of the same. (1885, c. 248; Rev., s. 3354; 1917, c. 39; C. S., s. 4339.)

**§ 14-185. Inducing female persons to enter hotels or boardinghouses for immoral purposes.**—Any person who shall knowingly persuade, induce or entice, or cause to be persuaded, induced or enticed, any woman or girl to enter a hotel, public inn or boardinghouse for the purpose of prostitution or debauchery or for any other immoral purpose, shall be deemed guilty of a misdemeanor, and, upon conviction, shall be punished in the discretion of the court. (1917, c. 158, s. 1; C. S., s. 4344.)

**§ 14-187. Permitting unmarried female under eighteen in house of prostitution.**—Whoever, being the keeper of a house of prostitution, or assignation house, building or premises in this State where prostitution, fornication or concubinage is allowed or practiced, shall suffer or permit any unmarried female under the age of eighteen years to live, board, stop, or room in such house, building or premises, shall be guilty of a misdemeanor. (Pub. Loc. 1913, c. 761, s. 18; 1919, c. 288; C. S., s. 4346.)

**§ 14-198. Lewd women within three miles of colleges and boarding schools.**—If any loose woman or woman of ill fame shall commit any act of lewdness with or in the presence of any student, who is under 18 years old, of any boarding school or college, within three miles of such school or college, she shall be guilty of a misdemeanor, and upon conviction shall be fined not exceeding fifty dollars ($50.00) or imprisoned not exceeding 30 days. Upon the trial of any such case students may be competent but not compellable to give evidence. No prosecution shall be had under this section after the lapse of six months. (1889, c. 523; Rev., s. 3353; C. S., s. 4353; 1971, c. 1231, s. 1.)

**§ 14-202. Secretly peeping into room occupied by female person.**—Any person who shall peep secretly into any room occupied by a female person shall be guilty of a misdemeanor and upon conviction shall be fined or imprisoned in the discretion of the court. (1923, c. 78; C. S., s. 4356(a); 1957, c. 338.)

**§ 14-203. Definition of terms.**—The term "prostitution" shall be construed to include the offering or receiving of the body for sexual intercourse for hire, and shall also be construed to include the offering or receiving of the body for indiscriminate sexual intercourse without hire. The term "assignation" shall be construed to include the making of any appointment or engagement for prostitution or any act in furtherance of such appointment or engagement. (1919, c. 215, s. 2; C. S., s. 4357.)

**§ 14-204. Prostitution and various acts abetting prostitution unlawful.**—It shall be unlawful:

(1) To keep, set up, maintain, or operate any place, structure, building or conveyance for the purpose of prostitution or assignation.

(2) To occupy any place, structure, building, or conveyance for the purpose of prostitution or assignation; or for any person to permit any place, structure, building or conveyance owned by him or under his control to be used for the purpose of prostitution or assignation, with knowledge or reasonable cause to know that the same is, or is to be, used for such purpose.

(3) To receive, or to offer or agree to receive any person into any place, structure, building, or conveyance for the purpose of prostitution or assignation, or to permit any person to remain there for such purpose.

(4) To direct, take, or transport, or to offer or agree to take or transport, any person to any place, structure, or building or to any other person, with knowledge or reasonable cause to know that the purpose of such directing, taking, or transporting is prostitution or assignation.

(5) To procure, or to solicit, or to offer to procure or solicit for the purpose of prostitution or assignation.

(6) To reside in, enter, or remain in any place, structure, or building, or to enter or remain in any conveyance, for the purpose of prostitution or assignation.

(7) To engage in prostitution or assignation, or to aid or abet prostitution or assignation by any means whatsoever. (1919, c. 215, s. 1; C. S., s. 4358.)

**§ 14-207. Degrees of guilt.**—Any person who shall be found to have committed two or more violations of any of the provisions of § 14-204 of this article within a period of one year next preceding the date named in an indictment, information, or charge of violating any of the provisions of such section, shall be deemed guilty in the first degree. Any person who shall be found to have committed a single violation of any of the provisions of such section shall be deemed guilty in the second degree. (1919, c. 215, s. 4; C. S., s. 4361.)

**§ 14-208. Punishment; probation; parole.**—Any person who shall be deemed guilty in the first degree, as set forth in § 14-207, shall be guilty of a misdemeanor, and may be fined or imprisoned in the discretion of the court, or may be committed to any penal or reformatory institution in this State: Provided, that in case of a commitment to a reformatory institution, the commitment shall be made for an indeterminate period of time of not less than one nor more than three years in duration, and the board of managers or directors of the reformatory institution shall have authority to discharge or to place on parole any person so committed after the service of the minimum term or any part thereof, and to require the return to said institution for the balance of the maximum term of any person who shall violate the terms or conditions of the parole.

Any person who shall be deemed guilty in the second degree, as set forth in § 14-207, shall be guilty of a misdemeanor, and shall be fined or imprisoned at the discretion of the court: Provided, that the defendant may be placed on probation in the care of a probation officer designated by law, or theretofore appointed by the court.

Probation or parole shall be granted or ordered in the case of a person infected with venereal disease only on such terms and conditions as shall insure medical treatment therefor and prevent the spread thereof, and the court may order any convicted defendant to be examined for venereal disease.

No girl or woman who shall be convicted under this article shall be placed on probation or on parole in the care or charge of any person except a woman probation officer. (1919, c. 215, s. 5; C. S., s. 4362; 1921, c. 101.)

**§ 14-262. Requiring female prisoners to work in chain gang. —** If any officer, either judicial, executive or ministerial, shall order or require the working of any female on the streets or roads in any group or chain gang in this State, he shall be deemed guilty of a misdemeanor. (1897, c. 270; Rev., s. 3596; C. S., s. 4409.)

**§ 14-274. Disturbing students at schools for women.**—It shall be unlawful for any male person to willfully disturb, annoy or harass the students of any boarding school or college for women situated anywhere in North Carolina by rude conduct or by persistent unnecessary presence on or near the property of the school or college; or by the willful addressing or communicating orally or otherwise with said students while on school property, or while elsewhere when in charge of a teacher, officer or student of said school. The violation of this section shall be deemed a misdemeanor punishable by a fine of not less than five dollars ($5) nor more than fifty dollars ($50), or by imprisonment not to exceed thirty days. (1925, c. 189, s. 1.)

**§ 14-319. Marrying females under sixteen years old.**—If any person shall marry a female under the age of sixteen years, he shall be guilty of a misdemeanor punishable by a fine not to exceed five hundred dollars ($500.00), imprisonment for not more than six months, or both. (1820, c. 1041, ss. 1, 2, P. R.; R. C., c. 34, s. 46; Code, s. 1083; Rev., s. 3368; C. S., s. 4444; 1947, c. 383, s. 1; 1969, c. 1224, s. 1.)

**§ 14-320. Separating child under six months old from mother.** — It shall be unlawful for any person to separate or aid in separating any child under six months old from its mother for the purpose of placing such child in a foster home or institution, or with the intent to remove it from the State for such purpose, without the written consent of either the county director of social services of the county in which the mother resides, or of the county in which the child was born, or of a private child-placing agency duly licensed by the Social Services Commission; but the written consent of any of the officials named in this section shall not be necessary for a child when the mother places the child with relatives or in a boarding home or institution inspected by the Department of Human Resources and licensed by the Social Services Commission. Such consent when required shall be filed in the records of the official or agency giving consent. Any person or agency violating the provisions of this section shall, upon conviction, be fined not exceeding five hundred dollars ($500.00) or imprisoned for not more than one year, or both, in the discretion of the court. (1917, c. 59; 1919, c. 240; C. S., s. 4445; 1939, c. 56; 1945, c. 669; 1949, c. 491; 1965, c. 356; 1969, c. 982; 1973, c. 476, s. 138.)

**§ 14-322. Abandonment by husband or parent.**—If any husband shall wilfully abandon his wife without providing her with adequate support or if any father or mother shall wilfully neglect or refuse to provide adequate support for his or her child or children, whether natural or adopted, whether or not he or she abandons said child or children, he or she shall be guilty of a misdemeanor and upon conviction for the first offense shall be punished by a fine not exceeding five hundred dollars ($500.00) or by imprisonment not exceeding six months, or both, in the discretion of the court; upon conviction of a second or subsequent offense he or she shall be punished by fine or by imprisonment not exceeding two years, or both, in the discretion of the court; and such wilful neglect or refusal shall constitute a continuing offense and shall not be barred by any statute of limitations until the youngest living child shall arrive at the age of eighteen (18) years. (1868-9, c. 209, s. 1; 1873-4, c. 176, s. 10; 1879, c. 92; Code, s. 970; Rev., s. 3355; C. S., s. 4447; 1925, c. 290; 1949, c. 810; 1957, c. 369; 1969, c. 1045, s. 1.)

SANDERS v SANDERS, 167 NC 319, 83 S.E. 490 (1914)

FATHER'S DUTY to SUPPORT FAMILY

**§ 14-322.1. Abandonment of child or children for six months.** — Any man or woman who, without just cause or provocation, wilfully abandons his or her child or children for six (6) months and who wilfully fails or refuses to provide adequate means of support for his or her child or children during the six months' period, and who attempts to conceal his or her whereabouts from his or her child or children with the intent of escaping his lawful obligation for the support of said child or children, shall, upon conviction thereof, be guilty of a felony and punished in the discretion of the court. (1963, c. 1227.)

**§ 14-323. Evidence that abandonment was willful.** — If the fact of abandonment of and failure to provide adequate support for the wife and children shall be proved, or, while being with such wife, neglect by the husband to provide for the adequate support of such wife or children shall be proved, then the fact that such husband neglects applying himself to some honest calling for the support of himself and family, and is found sauntering about, endeavoring to maintain himself by gaming or other undue means, or is a common frequenter of drinking houses, or is a known common drunkard, shall be presumptive evidence that such abandonment and neglect is willful. (1868-9, c. 209, s. 3; Code, s. 971; Rev., s. 3356; C. S., s. 4448.)

**§ 14-324. Order to support from husband's property or earnings.**—Upon any conviction for abandonment, any judge or any recorder having jurisdiction thereof may, in his discretion, make such order as in his judgment will best provide for the support, as far as may be necessary, of the deserted wife or children, or both, from the property or labor of the defendant. (1917, c. 259; C. S., s. 4449.)

**§ 14-325. Failure of husband to provide adequate support for family.**—If any husband, while living with his wife, shall willfully neglect to provide adequate support of such wife or the children which he has begotten upon her, he shall be guilty of a misdemeanor and upon conviction for the first offense shall be punished by a fine not exceeding five hundred dollars ($500.00) or by imprisonment not exceeding six months, or both, in the discretion of the court; upon a conviction of a second or subsequent offense he shall be punished by fine or by imprisonment not exceeding two years, or both, in the discretion of the court. Upon conviction of any husband as herein provided, the court having jurisdiction thereof may in his discretion make such order as in his judgment will best provide for the support of such wife or children, and may commit the said husband to the common jail of the county, to be hired out by the county commissioners for such length of time as the court may deem proper, which said wage or salary shall be paid to the said wife or children, to be used toward their support. (1868-9, c. 209, s. 2; 1873-4, c. 176, s. 11; 1879, c. 92; Code, s. 972; Rev., s. 3357; C. S., s. 4450; 1921, c. 103; 1969, c. 1045, s. 2.)

**§ 14-325.1. When offense of failure to support child deemed committed in State.**—The offense of wilful neglect or refusal of a father to support and maintain his child or children, and the offense of wilful neglect or refusal to support and maintain one's illegitimate child, shall be deemed to have been committed in the State of North Carolina whenever the child is living in North Carolina at the time of such wilful neglect or refusal to support and maintain such child. (1953, c. 677.)

**§ 14-326. Abandonment of child by mother.**—If any mother shall willfully abandon her child or children, whether legitimate or illegitimate, and under sixteen years of age, she shall be guilty of a misdemeanor. (1931, c. 57, s. 1.)

**§ 14-338. Tramp defined and punishment provided; certain persons excepted.**—If any person shall go about from place to place begging or subsisting on charity, he shall be denominated a tramp, and shall be punished by a fine not exceeding fifty dollars, or by imprisonment not exceeding thirty days: Provided, that any person who shall furnish satisfactory evidence of good character shall be discharged without cost. Any act of begging or vagrancy by any person, unless a well-known object of charity, shall be evidence that the person committing the same is a tramp. This section shall not apply to any woman, to any minor under the age of fourteen years, or to any blind person. (1879, c. 198, ss. 1, 4, 6; Code, ss. 3828, 3829, 3831, 3833; 1897, c. 268; Rev., s. 3735; C. S., s. 4461.)

**§ 20-187.2. Badges and service revolvers of deceased or retiring members of State law-enforcement agencies; revolvers of active members.**

(a) Widows, or in the event such members die unsurvived by a widow, surviving children of members of North Carolina State law-enforcement agencies killed in the line of duty or who are members of such agencies at the time of their deaths, and retiring members of such agencies, shall receive, upon request and at no cost to them, the badge and service revolver worn or carried by such deceased or retiring member, upon securing a permit as required by G.S. 14-402 et seq. or G.S. 14-409.1 et seq., or without such permit provided the revolver shall have been rendered incapable of being fired.

(b) Active members of North Carolina State law-enforcement agencies, upon change of type of revolvers, may purchase the revolver worn or carried by such member at a price which shall be the average yield to the State from the sale of similar revolvers during the preceding year. (1971, c. 669; 1973, c. 1424.)

## ARTICLE 3.

*Trustee for Estate of Debtor Imprisoned for Crime.*

**§ 23-18. Persons who may apply for trustee for imprisoned debtor.** —When any debtor is imprisoned in the penitentiary for any term, or in a county jail for any term more than twelve months, application by petition may be made by any creditor, the debtor, or by his wife, or any of his relatives, for the appointment of a trustee to take charge of the estate of such debtor. (1868-9, c. 162, s. 40; Code, s. 2974; Rev., s. 1943; C. S., s. 1626.)

**§ 28A-13-3. Powers of personal representative.** — (a) Except as qualified by express limitations imposed in a will of the decedent or a court order, and subject to the provisions of G.S. 28A-13-6 respecting the powers of joint personal representatives, a personal representative has the power to perform in a reasonable and prudent manner every act which a reasonable and prudent man would perform incident to the collection, preservation, liquidation or distribution of a decedent's estate so as to accomplish the desired result of settling and distributing the decedent's estate in a safe, orderly, accurate and expeditious manner as provided by law, including but not limited to the powers specified in the following subdivisions: . . . .

Related Statute: § 28A-13.10 (c)

§ 29-4. **Curtesy and dower abolished.**—The estates of curtesy and dower are hereby abolished. (1959, c. 879, s. 1.)

Cited in Dudley v. Staton, 257 N.C. 572, 126 S.E.2d 590 (1962).

## ARTICLE 6.

### *Illegitimate Children.*

**§ 29-19. Succession by, through and from illegitimate children. — (a)** For purposes of intestate succession, an illegitimate child shall be treated as if he were the legitimate child of his mother, so that he and his lineal descendants are entitled to take by, through and from his mother and his other maternal kindred, both descendants and collaterals, and they are entitled to take from him.

(b) For purposes of intestate succession, an illegitimate child shall be entitled to take by, through and from:

(1) Any person who has been judicially determined to be the father of such child pursuant to the provisions of G.S. 49-14 through 49-16;

(2) Any person who has acknowledged himself during his own lifetime to be the father of such child in a written instrument executed or acknowledged before a certifying officer named in G.S. 52-6(c) and filed during his own lifetime in the office of the clerk of superior court of the county where either he or the child resides.

Notwithstanding the above provisions, no person shall be entitled to take hereunder unless he has given written notice of the basis of his claim to the personal representative of the putative father within six months after the date of the first publication or posting of the general notice to creditors. However, when the personal representative of a deceased putative father is a party to an action brought pursuant to G.S. 49-14 through 49-16 and such action provides the basis for a claim hereunder, this relationship to the action shall be sufficient notice.

(c) Any person described under subdivision (b)(1) or (2) above and his lineal and collateral kin shall be entitled to inherit by, through and from the illegitimate child.

(d) Any person who acknowledges himself to be the father of an illegitimate child in his duly probated last will shall be deemed to have intended that such child be treated as expressly provided for in said will or, in the absence of any express provision, the same as a legitimate child. (1959, c. 879, s. 1; 1973, c. 1062, s. 1.)

§ 29-21. **Share of surviving spouse.**—The share of the surviving spouse of an illegitimate intestate shall be the same as provided in G.S. 29-14 for the surviving spouse of a legitimate person except:

(1) If the intestate is not survived by a child, children or any lineal descendant of a deceased child or children, but is survived by his or her mother, a one-half undivided interest in the real property and the first ten thousand dollars ($10,000.00) in value plus one half of the remainder of the personal property; or

(2) If the intestate is not survived by a child, children or any lineal descendant of a deceased child or children, or his mother, the surviving spouse shall take all of the net estate. (1959, c. 879, s. 1.)

Related Statute: § 29-22

**§ 30-17. When children entitled to an allowance.** — Whenever any parent dies leaving any child under the age of 18 years, including an adopted child or a child with whom the widow may be pregnant at the death of her husband, or a child who is less than 22 years of age and is a full-time college student, or a child under 21 years of age who has been declared mentally incompetent, or a child under 21 years of age who is totally disabled, or any other person under the age of 18 years residing with the deceased parent at the time of death to whom the deceased parent or the surviving parent stood in loco parentis, every such child shall be entitled, besides its share of the estate of such deceased parent, to an allowance of six hundred dollars ($600.00) for its support for the year next ensuing the death of such parent, less, however, the value of any articles consumed by said child since the death of said parent. Such allowance shall be exempt from any lien, by judgment or execution against the property of such parent. The personal representative of the deceased parent, within one year after the parent's death, shall assign to every such child the allowance herein provided for; but if there is no personal representative or if he fails or refuses to act within 10 days after written request by a guardian or next friend on behalf of such child, the allowance may be assigned by a magistrate, upon application of said guardian or next friend.

If the child resides with the widow of the deceased parent at the time such allowance is paid, the allowance shall be paid to said widow for the benefit of said child. If the child resides with its surviving parent who is other than the widow of the deceased parent, such allowance shall be paid to said surviving parent for the use and benefit of such child. Provided, however, the allowance shall not be available to an illegitimate child of a deceased father, unless such deceased father shall have recognized the paternity of such illegitimate child by deed, will or other paper-writing. If the child does not reside with a parent when the allowance is paid, it shall be paid to its general guardian, if any, and if none, to the clerk of the superior court who shall receive and disburse same for the benefit of such child. (1889, c. 496; Rev., s. 3094; C. S., s. 4111; 1939, c. 396; 1953, c. 913, s. 2; 1961, c. 316, s. 2; c. 749, s. 3; 1969, c. 269; 1971, c. 528, s. 22; 1973, c. 1411.)

**§ 31A-5. Entirety property.**—Where the slayer and decedent hold property as tenants by the entirety:

(1) If the wife is the slayer, one half of the property shall pass upon the death of the husband to his estate, and the other one half shall be held by the wife during her life, subject to pass upon her death to the estate of the husband; and

(2) If the husband is the slayer, he shall hold all of the property during his life subject to pass upon his death to the estate of the wife. (1961, c. 210, s. 1.)

**§ 31-5.5. After-born or after-adopted child; illegitimate child; effect on will.** — (a) A will shall not be revoked by the subsequent birth of a child to the testator, or by the subsequent adoption of a child by the testator, or by the subsequent entitlement of an after-born illegitimate child to take as an heir of the testator pursuant to the provisions of G.S. 29-19(b), but any after-born, after-adopted or entitled after-born illegitimate child shall have the right to share in the testator's estate to the same extent he would have shared if the testator had died intestate unless:

(1) The testator made some provision in the will for the child, whether adequate or not, or

(2) It is apparent from the will itself that the testator intentionally did n make specific provision therein for the child.

(b) The provisions of G.S. 28-153 through G.S. 28-158 shall be construed a being applicable to after-adopted children and to after-born children, whethe legitimate or entitled illegitimate.

(c) The terms "after-born," "after-adopted" and "entitled after-born" as use in this section refer to children born, adopted or entitled subsequent to th execution of the will. (1868-9, c. 113, s. 62; Code, s. 2145; Rev., s. 3145; C. S., 4169; 1953, c. 1098, s. 7; 1955, c. 541; 1973, c. 1062, s. 2.)

**§ 33-2. Appointment by parents; effect; powers and duties of guardian.**—Any father, though he be a minor, may, by his last will and testament in writing, if the mother be dead, dispose of the custody and tuition of any of his infant children, being unmarried, and whether born at his death or in ventre sa mere for such time as the children may remain under 18 years of age, or for any less time. Or in case the father is dead and has not exercised his said right of appointment, or has wilfully abandoned his wife, then the mother, whether of full age or minor, may do so. Every such appointment shall be good and effectual against any person claiming the custody and tuition of such child or children. Every guardian by will shall have the same powers and rights and be subject to the same liabilities and regulations as other guardians: Provided, however, that in the event it is so specifically directed in said will such guardian so appointed shall be permitted to qualify and serve without giving bond, unless the clerk of the superior court having jurisdiction of said guardianship shall find as a fact and adjudge that the interest of such minor or incompetent would be best served by requiring such guardian to give bond. (1762, c. 69; R. C., c. 54; 1868-9, c. 201; 1881, c. 64; Code, ss. 1562, 1563, 1564; Rev., ss. 1762, 1763, 1764;

## ARTICLE 11.

*Guardians of Children of Servicemen.*

**§ 33-67. Clerk of superior court to act as temporary guardian to receive and disburse allotments and allowances.**—In all cases where a citizen of this State is serving in the armed forces of the United States and has made an allotment or allowance to his child, children or other minor dependents as provided by the war time allowances to Service Men's Dependents Act or any other act of Congress, and the mother of said child, children or other minor dependents or other person of lawful age designated in said allowance or allotment to receive such moneys and disburse them for the benefit of said minor dependents shall die or become mentally incompetent, and such person so serving in the armed forces of the United States shall be reported as missing in action or as a prisoner of war and shall be unable to designate another person to receive and disburse said allotment or allowance to said minor dependents; then and in such event the clerk of the superior court of the county of the legal residence of said serviceman or person serving in the armed forces of the United States, is hereby authorized and empowered to act as temporary guardian of such minor dependents for the purpose of receiving and disbursing such allotments and allowance funds for the benefit of such minor dependents. (1945, c. 735.)

## ARTICLE 2.

*Guardianship and Management of Estates of Incompetents.*

**§ 35-2. Inquisition of lunacy; appointment of guardian.** — Any person, in behalf of one who is deemed a mental defective, inebriate, or mentally disordered, or incompetent from want of understanding to manage his own affairs by reason of the excessive use of intoxicating drinks, or other cause, may file a petition before the clerk of the superior court of the county where such supposed mental defective, inebriate or mentally disordered person resides, setting forth the facts, duly verified by the oath of the petitioner; whereupon such clerk shall issue an order, upon notice to the supposed mental defective, inebriate or mentally disordered person, to the sheriff of the county, commanding him to summon a jury of 12 men to inquire into the state of such supposed mental defective, inebriate or mentally disordered person. Upon the return of the sheriff summoning said jury, the clerk of the superior court shall swear and organize said jury and shall preside over said hearing, and the jury shall make return of their proceedings under their hand to the clerk, who shall file and record the same; and he shall proceed to appoint a guardian of any person so found to be a mental defective, inebriate, mentally disordered, or incompetent person by inquisition of a jury, as in cases of orphans.

§ **35-7. Allowance to abandoned insane wife.**—When any insane wife is abandoned by her husband, she may, by her guardian, or next friend, in case there be no guardian, apply to the clerk of the superior court for support and maintenance, which the clerk may decree as in cases of alimony, out of any property or estate of her husband. (1858-9, c. 52, s. 1; Code, s. 1686; Rev., s. 1895; C. S., s. 2290.)

§ **35-13. Wife of insane person entitled to special proceeding for sale of his property.**—Every woman whose husband is a lunatic or insane and is confined in an asylum in this State, and who was living with her husband at the time he was committed to such asylum, if she be in needy circumstances, shall have the right to bring a special proceeding before the clerk of the superior court to sell the property of her insane husband, or so much thereof as is deemed expedient, and have the proceeds applied to her support: Provided, that said proceeding shall be approved by the judge of the superior court holding the courts of the judicial district where the said property is situated. When the deed of the commissioner appointed by the court, conveying the lands belonging to the insane husband is executed, probated, and registered, it conveys a good and indefeasible title to the purchaser. (1911, c. 142, ss. 1, 2; C. S., s. 2294.)

§ **35-19. Income of insane widowed mother used for children's support.**—When a father dies leaving him surviving minor children and a widow who is the mother of such children, but leaving no sufficient estate for the support and maintenance and education of such minor children, and the mother is or becomes insane and is so declared according to law, and such insanity continues for twelve months thereafter, and she has an estate which is placed in the hands of a guardian or other person, as provided by law, the estate of such insane mother shall in such cases as are provided for in § 35-20 be made liable for the support, maintenance and education of the class of persons mentioned in said section to the same extent, in the same manner and under the same rules and regulations as applies to estates of fathers thereunder. (1905, c. 546; Rev., s. 1899; C. S., s. 2295.)

## Article 2.

*Conveyances by Husband and Wife.*

**§ 39-7. Instruments affecting married person's title; joinder of spouse; exceptions.**—(a) In order to waive the elective life estate of either husband or wife as provided for in G.S. 29-30, every conveyance or other instrument affecting the estate, right or title of any married person in lands, tenements or hereditaments must be executed by such husband or wife, and due proof or acknowledgment thereof must be made and certified as provided by law.

(b) A married person may bargain, sell, lease, mortgage, transfer and convey any of his or her separate real estate without joinder or other waiver by his or her spouse if such spouse is incompetent and a guardian or trustee has been appointed as provided by the laws of North Carolina, and if the appropriate instrument is executed by the married person and the guardian or trustee of the incompetent spouse and is probated and registered in accordance with law, it shall convey all the estate and interest as therein intended of the married person in the land conveyed, free and exempt from the elective life estate as provided in G.S. 29-30 and all other interests of the incompetent spouse.

(c) Subsection (a) shall not be construed to require the spouse's joinder or other waiver of the elective life estate of such spouse as provided for in G.S. 29-30 where a different provision is made or provided for in the General Statutes including, but not limited to, G.S. 39-13, G.S. 39-13.3, G.S. 39-13.4, G.S. 31A-1 (d), and G.S. 52-10. (C. C. P., s. 429; subsec. 6; 1868-9, c. 277, s. 15; Code, s.

**§ 39-13.3. Conveyances between husband and wife.**—(a) A conveyance from a husband or wife to the other spouse of real property or any interest therein owned by the grantor alone vests such property or interest in the grantee.

(b) A conveyance of real property, or any interest therein, by a husband or a wife to such husband and wife vests the same in the husband and wife as tenants by the entirety unless a contrary intention is expressed in the conveyance.

(c) A conveyance from a husband or a wife to the other spouse of real property, or any interest therein, held by such husband and wife as tenants by the entirety dissolves such tenancy in the property or interest conveyed and vests such property or interest formerly held by the entirety in the grantee.

(d) The joinder of the spouse of the grantor in any conveyance made by a husband or a wife pursuant to the foregoing provisions of this section is not necessary.

(e) Any conveyance by a wife authorized by this section is subject to the provisions of G.S. 52-6. (1957, c. 598, s. 1; 1965, c. 878, s. 3.)

**§ 47-14.1. Repeal of laws requiring private examination of married women.**—All deeds, contracts, conveyances, leaseholds or other instruments executed from and after February 7, 1945, shall be valid for all purposes without the separate, privy, or private examination of a married woman where she is a party to or a grantor in such deed, contract, conveyance, leasehold or other instrument, and it shall not be necessary nor required that the separate or privy examination of such married woman be taken by the certifying officer. From and after February 7, 1945, all laws and clauses of laws contained in any section of the General Statutes requiring the privy or private examination of a married woman are hereby repealed. (1945, c. 73, s. 21; 1951, c. 893, s. 1.)

DOES NOT REPEAL G.S. § 52-6

**§ 47-15. Probate of husband's deed where wife insane.**—When a deed executed by a married man whose wife is insane or a lunatic, and whose homestead has been allotted, together with the certificate of the clerk of the superior court or with the certificate of the superintendent of the insane institution of the state where the wife is confined in conformity to § 39-14 under the chapter Conveyances, is offered for probate before the clerk of the superior court of the county in which the land conveyed is situated, and the execution of such deed is acknowledged or proved, the clerk shall adjudge whether the certificate of the superintendent or the clerk is in due form, and if adjudged to be in due form he shall order the registration of the deed and certificate. (1905, c. 138, s. 2; Rev., s. 1000; 1919, c. 20; C. S., s. 3306.)

**§ 48-2. Definitions.**—In this Chapter, unless the context or subject matter otherwise requires—

(1) "Adult person" means any person who has attained the age of 18 years.

(2) "Licensed child-placing agency" means any agency operating under a license to place children for adoption issued by the Department of Human Resources, or in the event that such agency is in another state or territory or in the District of Columbia, operating under a license to place children for adoption issued by a governmental authority of such state, territory, or the District of Columbia, empowered by law to issue such licenses.

(3a) For the purpose of this Chapter, an abandoned child shall be any child who has been willfully abandoned at least six consecutive months immediately preceding institution of an action or proceeding to declare the child to be an abandoned child. A child may be willfully abandoned by his or her legal or natural father, within the meaning of this section, if the mother of the child had been willfully abandoned by and was living separate and apart from the father at the time of the child's birth, although the father may not have known of such birth; but in any event said child must be over the age of three months at the time of institution of the action or proceeding to declare the child to be an abandoned child.

(3b) In addition to the definition of abandonment in (3a) above, an abandoned child, for purposes of this Chapter, shall be a child who has been placed in the care of a child-caring institution or foster home, and whose parent, parents, or guardian of the person has failed substantially and continuously for a period of more than one year to maintain contact with such child, and has willfully failed for such period to contribute adequate support to such child, although physically and financially able to do so. In order to find an abandonment under this subdivision, the court must find the foregoing and the court must also find that diligent but unsuccessful efforts have been made on the part of the institution or a child-placing agency to encourage the parent, parents, or guardian of the person of the child to strengthen the parental or custodial relationship to the child.

(4) "Readoption" means an adoption by any person of a child who has been previously legally adopted.

(5) "Stepchild" means the child of one spouse by a former union, whether or not such child was born in wedlock. (1949, c. 300; 1953, c. 880; 1957, c. 778, s. 1; 1961, c. 241; 1969, c. 982; 1971, c. 157, ss. 1, 2; c. 1231, s. 1; 1973, c. 476, s. 138.)

**§ 48-4. Who may adopt children.** — (a) Any person over 18 years of age may petition in a special proceeding in the superior court to adopt a minor child and may also petition for a change of the name of such child. If the petitioner has a husband or wife living, competent to join in the petition, such spouse shall join in the petition.

(b) Provided, however, that if the spouse of the petitioner is a natural parent of the child to be adopted, such spouse need not join in the petition but need only to give consent as provided in G.S. 48-7(d). Provided further that if the petitioner is the natural parent of the child to be adopted and the other natural parent of the child is living, the spouse of the petitioner may choose not to join in the petition, but shall indicate agreement to the proposed adoption by affidavit which shall be incorporated into the adoption proceeding.

(c) Provided further, that the petitioner or petitioners shall have resided in North Carolina, or on federal territory within the boundaries of North Carolina, for six months next preceding the filing of the petition unless the petition is for the adoption of a stepchild as provided in subsection (b) or for the adoption of a natural child as provided in subsection (b) or for the adoption of a child who is by blood the grandchild of one of the petitioners, or unless, in the case of a child born out of wedlock, the petitioners file an affidavit with the court as described in subsection (d). In cases where the petition is for the adoption of a child who is by blood the grandchild of one of the petitioners and in cases where the petitioner is the natural parent of the child as provided in subsection (b) and in the case of a child born out of wedlock and where the petitioners file an affidavit with the court as described in subsection (d) and in cases where the petition is for the adoption of a stepchild, the petitioner must be in fact residing in North Carolina, or on a federal territory within the boundaries of North Carolina, at the time the petition is filed. The provisions of this subsection concerning the adoption of a grandchild shall apply in the case of any petition filed on or after January 1, 1967.

(d) In the case of a child born out of wedlock, if the putative father of the child or the putative father and his spouse are petitioners seeking to adopt the child, and the petitioners shall state in an affidavit filed with the court that the male petitioner is the father of the child or that he is believed by the petitioners to be the father of the child, and that the child was born out of wedlock, and the petitioners must be in fact residing in North Carolina, or on a federal territory within the boundaries of North Carolina, at the time the petition is filed.

(e) If the petitioner is the natural parent or the spouse of the natural parent of the minor child, such petitioner may adopt the child even though the petitioner is not 21 years of age. Such petitioner shall be competent to execute the petition without the appointment of a general or testamentary guardian, or by guardian ad litem. (1949, c. 300; 1963, c. 699; 1967, c. 619, ss. 1-3; c. 693; 1971, c. 395; c. 1231, s. 1; 1973, c. 1354, ss. 1-4.)

**§ 48-6. When consent of father not necessary.**—(a) In the case of a child born out of wedlock and when said child has not been legitimated prior to the time of the signing of the consent, the written consent of the mother alone shall be sufficient under this chapter and the father need not be made a party to the proceeding. The legitimation of the child by any means subsequent to the signing of such consent of the mother shall not make such consent invalid nor adversely affect the sufficiency of such consent nor make necessary the consent of the father or his joinder as a party to the proceeding.

(1969, c. 534, s. 1.)

**§ 48-6.1. When consent of mother of illegitimate child not necessary.**—Whenever it has been judicially determined in a proceeding instituted pursuant to the provisions of North Carolina G.S. 130-58.1 that a child born out of wedlock is living under such conditions that the health or general welfare of such child is endangered by its living conditions and environment, then, the consent of the mother to the adoption of such child shall not be necessary as a prerequisite to the validity of the adoption of said child. (1963, c. 1258; 1969, c. 911, s. 8.)

§ 49-4. **When prosecution may be commenced.**—The prosecution of the reputed father of an illegitimate child may be instituted under this chapter within any of the following periods, and not thereafter:

(1) Three years next after the birth of the child; or

(2) Where the paternity of the child has been judicially determined within three years next after its birth, at any time before the child attains the age of eighteen years; or

(3) Where the reputed father has acknowledged paternity of the child by payments for the support thereof within three years next after the birth of such child, three years from the date of the last payment whether such last payment was made within three years of the birth of such child or thereafter: Provided, the action is instituted before the child attains the age of eighteen years.

The prosecution of the mother of an illegitimate child may be instituted under this chapter at any time before the child attains the age of eighteen years. (1933, c. 228, s. 3; 1939, c. 217, s. 3; 1945, c. 1053; 1951, c. 154, s. 2.)

§ 49-5. **Prosecution; indictments; death of mother no bar; determination of fatherhood.** — Proceedings under this Article may be brought by the mother or her personal representative, or, if the child is likely to become a public charge, the director of public welfare or such person as by law performs the duties of such official in said county where the mother resides or the child is found. Indictments under this Article may be returned in the county where the mother resides or is found, or in the county where putative father resides or is found, or in the county where the child is found. The fact that the child was born outside of the State of North Carolina shall not be a bar to indictment of the putative father in any county where he resides or is found, or in the county where the mother resides or the child is found. The death of the mother shall in nowise affect any proceedings under this Article. Preliminary proceedings under this Article to determine the paternity of the child may be instituted prior to the birth of the child but when the judge or court trying the issue of paternity deems it proper, he may continue the case until the woman is delivered of the child. When a continuance is granted, the courts shall recognize the person accused of being the father of the child with surety for his appearance, either at the next session of the court or at a time to be fixed by the judge or court granting a continuance, which shall be after the delivery of the child. (1933, c. 228, s. 4; 1961, c. 186; 1971, c. 1185, s. 18.)

§ 49-6. **Mother not excused on ground of self-incrimination; not subject to penalty.**—No mother of an illegitimate child shall be excused, on the ground that it may tend to incriminate her or subject her to a penalty or a forfeiture, from attending and testifying, in obedience to a subpoena of any court, in any suit or proceeding based upon or growing out of the provisions of this article, but no such mother shall be prosecuted or subjected to any penalty or forfeiture for or on account of any transaction, matter, or thing as to which, in obedience to a subpoena and under oath, she may so testify. (1933, c. 228, s. 5; 1939, c. 217, s. 5.)

§ 49-8. **Power of court to modify orders; suspend sentence, etc.**— Upon the determination of the issues set out in the foregoing section [§ 49-7] and for the purpose of enforcing the payment of the sum fixed, the court is hereby given discretion, having regard for the circumstances of the case and the financial ability and earning capacity of the defendant and his or her willingness to cooperate, to make an order or orders upon the defendant and to modify such order or orders from time to time as the circumstances of the case may in the judgment of the court require. The order or orders made in this regard may include any or all of the following alternatives:

(1) Commit the defendant to prison for a term not to exceed six months;

(2) Suspend sentence and continue the case from term to term;

(3) Release the defendant from custody on probation conditioned upon the defendant's compliance with the terms of the probation and the payment of the sum fixed for the support and maintenance of the child;

(4) Order the defendant to pay to the mother of the said child the necessary expenses of birth of the child and suitable medical attention for her;

(5) Require the defendant to sign a recognizance with good and sufficient security, for compliance with any order which the court may make in proceedings under this article. (1933, c. 228, s. 7; 1939, c. 217, s. 6.)

## ARTICLE 2.

### *Legitimation of Illegitimate Children.*

**§ 49-10. Legitimation.**—The putative father of any child born out of wedlock, whether such father resides in North Carolina or not, may apply by a verified written petition, filed in a special proceeding in the superior court of the county in which the putative father resides or in the superior court of the county in which the child resides, praying that such child be declared legitimate. The mother, if living, and the child shall be necessary parties to the proceeding, and the full names of the father, mother and the child shall be set out in the petition. If it appears to the court that the petitioner is the father of the child, the court may thereupon declare and pronounce the child legitimated; and the full names of the father, mother and the child shall be set out in the court order decreeing legitimation of the child. The clerk of the court shall record the order in the record of orders and decrees and it shall be cross-indexed under the name of the father as plaintiff or petitioner on the plaintiff's side of the cross-index, and under the name of the mother, and the child as defendants or respondents on the defendants' side of the cross-index. (Code, s. 39; Rev., s. 263; C. S., s. 277; 1947, c. 663, s. 1; 1971, c. 154.)

## ARTICLE 3.

### *Civil Actions Regarding Illegitimate Children.*

**§ 49-14. Civil action to establish paternity.**—(a) The paternity of a child born out of wedlock may be established by civil action. Such establishment of paternity shall not have the effect of legitimation.

(b) Proof of paternity pursuant to this section shall be beyond a reasonable doubt.

(c) Such action shall be commenced within one of the following periods:

(1) Three years next after the birth of the child; or

(2) Three years next after the date of the last payment by the putative father for the support of the child, whether such last payment was made within three years of the birth of such child or thereafter.

Provided, that no such action shall be commenced nor judgment entered after the death of the putative father. (1967, c. 993, s. 1; 1973, c. 1062, s. 3.)

**§ 49-15. Custody and support of illegitimate children when paternity established.**—Upon and after the establishment of paternity of an illegitimate child pursuant to G.S. 49-14, the rights, duties, and obligations of the mother and the father so established, with regard to support and custody of the child, shall be the same, and may be determined and enforced in the same manner, as if the child were the legitimate child of such father and mother. When paternity has been established, the father becomes responsible for medical expenses incident to the pregnancy and the birth of the child. (1967, c. 993, s. 1.)

**§ 50-5. Grounds for absolute divorce.**—Marriages may be dissolved and the parties thereto divorced from the bonds of matrimony, on application of the party injured, made as by law provided, in the following cases:

(6) In all cases where a husband and wife have lived separate and apart for three consecutive years, without cohabitation, and are still so living separate and apart by reason of the incurable insanity of one of them, the court may grant a decree of absolute divorce upon the petition of the sane spouse: Provided, the evidence shall show that the insane spouse is suffering from incurable insanity, and has been confined or examined for three consecutive years next preceding the bringing of the action in an institution for the care and treatment of the mentally disordered or, if not so confined, has been examined at least three years preceding the institution of the action for divorce and then found to be incurably insane as hereinafter provided. Provided further, that proof of incurable insanity be supported by the testimony of two reputable physicians, one of whom shall be a staff member or the superintendent of the institution where the insane spouse is confined, and one regularly practicing physician in the community wherein such husband and wife reside, who has no connection with the institution in which said insane spouse is confined; and provided further that a sworn statement signed by said staff member or said superintendent of the institution wherein the insane spouse is confined or was examined shall be admissible as evidence of the facts and opinions therein stated as to the mental status of said insane spouse and as to whether or not said insane spouse is suffering from incurable insanity, or the parties according to the laws governing depositions may take the deposition of said staff member or superintendent of the institution wherein the insane spouse is confined; and provided further that incurable insanity may be proved by the testimony of one or more licensed physicians who are members of the staff of one of this State's accredited four-year medical schools or a state-supported mental institution, supported by the testimony of one or more other physicians licensed by the State of North Carolina, that each of them examined the allegedly incurable insane spouse at least three years preceding the institution of the action for divorce and then determined that said spouse was suffering from incurable insanity and that one or more of them examined the allegedly insane spouse subsequent to the institution of the action and that in his or their opinion the said allegedly insane spouse was continuously incurably insane throughout the full period of three years prior to the institution of the said action.

* * *

In all decrees granted under this subdivision in actions in which the husband is the plaintiff the court shall require him to provide for the care and maintenance of the insane defendant as long as she may live, compatible with his financial standing and ability, and the trial court will retain jurisdiction of the parties and the cause, from term to term, for the purpose of making such orders as equity may require to enforce the provisions of the decree requiring the plaintiff to furnish the necessary funds for such care and maintenance. In the event of feme defendant's continued confinement in an institution for the mentally disordered, it shall be deemed sufficient support and maintenance if the plaintiff continue to pay and discharge the monthly payments required of him by the institution, such payments to be in amounts equal to those required of patients similarly situated. In all such actions wherein the wife is the plaintiff and the insane defendant has insufficient income and property to provide for his care and maintenance, then in the discretion of the court, the court may require her to provide for the care and maintenance of the insane defendant as long as he may live, compatible with her financial standing and ability, and the trial court will retain jurisdiction of the parties and the cause, from term to term, for the purpose of making such orders as equity may require to enforce the provisions of the decree requiring plaintiff to furnish the necessary funds for such care and maintenance.

* * *

**§ 50-12. Resumption of maiden name or adoption of name of prior deceased husband.** — Any woman at any time after the bonds of matrimony theretofore existing between herself and her husband have been dissolved by a decree of absolute divorce, may resume the use of her maiden name or the name of a prior deceased husband, or a name composed of her given name and the surname of a prior deceased husband upon application to the clerk of the court of the county in which she resides, setting forth her intention so to do. Said application shall be addressed to the clerk of the court of the county in which such divorced woman resides, and shall set forth the full name of the former husband of the applicant, the name of the county in which said divorce was granted, and the term or session of court at which such divorce was granted, and shall be signed by the applicant in her full maiden name. The clerks of court of the several counties of the State shall record and index such applications in such manner as shall be required by the Administrative Office of the Courts. The provisions of this section shall apply only in those cases in which the divorce decree is rendered by a court of competent jurisdiction of this State. In every case where a married woman has heretofore been granted a divorce and has, since the divorce, adopted the name of a prior deceased husband, or a name composed of her given name and the surname of a prior deceased husband, the adoption by her of such name is hereby validated. Provided that in the complaint or crossbill for divorce filed by any woman, she may petition the court for a resumption of her maiden name or the adoption by her of the name of a prior deceased husband, or of a name composed of her given name and the surname of a prior deceased husband, and upon the granting of the divorce in her favor, the court is authorized to incorporate in the divorce decree an order authorizing her to resume her maiden name or to adopt the name of a prior deceased husband or a name composed of her given name and the name of a prior deceased husband. (1937, c. 53; 1941, c. 9; 1951, c. 780; 1957, c. 394; 1971, c. 1185, s. 23.)

**§ 50-16.1. Definitions.** — As used in the statutes relating to alimony and alimony pendente lite unless the context otherwise requires, the term:

(1) "Alimony" means payment for the support and maintenance of a spouse, either in lump sum or on a continuing basis, ordered in an action for divorce, whether absolute or from bed and board, or an action for alimony without divorce.

(2) "Alimony pendente lite" means alimony ordered to be paid pending the final judgment of divorce in an action for divorce, whether absolute or from bed and board, or in an action for annulment, or on the merits in an action for alimony without divorce.

(3) "Dependent spouse" means a spouse, whether husband or wife, who is actually substantially dependent upon the other spouse for his or her maintenance and support or is substantially in need of maintenance and support from the other spouse.

(4) "Supporting spouse" means a spouse, whether husband or wife, upon whom the other spouse is actually substantially dependent or from whom such other spouse is substantially in need of maintenance and support. A husband is deemed to be the supporting spouse unless he is incapable of supporting his wife. (1967, c. 1152, s. 2.)

Related Statutes: §§ 50-16.2 through 50-16.10

**§ 51-1. Requisites of marriage; solemnization.**—The consent of a male and female person who may lawfully marry, presently to take each other as husband and wife, freely, seriously and plainly expressed by each in the presence of the other, and in the presence of an ordained minister of any religious denomination, minister authorized by his church, or of a magistrate, and the consequent declaration by such minister or officer that such persons are man and wife, shall be a valid and sufficient marriage: Provided, that the rite of marriage among the Society of Friends, according to a form and custom peculiar to themselves, shall not be interfered with by the provisions of this Chapter: Provided further, that marriages solemnized and witnessed by a local spiritual assembly of the Baha'is, according to the usage of their religious community, shall be valid; provided further, marriages solemnized before March 9, 1909, by ministers of the gospel licensed, but not ordained, are validated from their consummation. (1871-2, c. 193, s. 3; Code, s. 1812; Rev., s. 2081; 1908, c. 47; 1909, c. 704, s. 2; c. 897; C. S., s. 2493; 1945, c. 839; 1965, c. 152; 1971, c. 1185, s. 26.)

**§ 51-2. Capacity to marry.**—(a) All unmarried persons of 18 years, or older, may lawfully marry, except as hereinafter forbidden. In addition, persons over 16 years of age and under 18 years of age may marry, and the register of deeds may issue a license for such marriage, only after there shall have been filed with the register of deeds a written consent to such marriage, said consent having been signed by the appropriate person as follows:

(1) By the father if the male or female child applying to marry resides with his or her father, but not with his or her mother;

(2) By the mother if the male or female child applying to marry resides with his or her mother, but not with his or her father;

(3) By either the mother or father, without preference, if the male or female child applying to marry resides with his or her mother and father;

(4) By a person, agency, or institution having legal custody, standing in loco parentis, or serving as guardian of such male or female child applying to marry.

(b) When an unmarried female who is more than 12 years old, but less than 18 years old, is pregnant or has given birth to a child and such unmarried female and the putative father of the child, either born or unborn, shall agree to marry, and consent in writing to such marriage, as set out in subsection (a), subdivisions (1), (2), (3) or (4) above, or by the director of public welfare of the county of residence of either party, is given on the part of the female the register of deeds is authorized to issue to said parties a license to marry, and it shall be lawful for them to marry in accordance with the provisions of this chapter.

**§ 51-3. Want of capacity; void and voidable marriages.**—All marriages between a white person and a negro or between a white person and person of negro descent to the third generation, inclusive, or between a Cherokee Indian of Robeson County and a negro, or between a Cherokee Indian of Robeson County and a person of negro descent to the third generation, inclusive, or between any two persons nearer of kin than first cousins, or between a male person under sixteen years of age and any female, or between a female person under sixteen years of age and any male, or between persons either of whom has a husband or wife living at the time of such marriage, or between persons either of whom is at the time physically impotent, or is incapable of contracting from want of will or understanding, shall be void: Provided, double first cousins may not marry; and provided further, that no marriage followed by cohabitation and the birth of issue shall be declared void after the death of either of the parties for any of the causes stated in this section, except for that one of the parties was a white person and the other a negro or of negro descent to the third generation, inclusive, and for bigamy; provided further, that no marriage by persons either of whom may be under sixteen years of age, and otherwise competent to marry, shall be declared void when the girl shall be pregnant, or when a child shall have been born to the parties unless such child at the time of the action to annul shall be dead. A marriage contracted under a representation and belief that the female partner to the marriage is pregnant, followed by the separation of the parties within forty-five (45) days of the marriage which separation has been continuous for a period of one year shall be voidable: Provided, that no child shall have been born to the parties within ten (10) lunar months of the date of separation. (R. C., c. 68, ss. 7, 8, 9; 1871-2, c. 193, s. 2; Code, s. 1810; 1887, c. 245; Rev., s. 2083; 1911, c. 215, s. 2; 1913, c. 123; 1917, c. 135; C. S., 2495; 1947, c. 383, s. 3; 1949, c. 1022; 1953, c. 1105; 1961, c. 367.)

N.C.G.S. § 14-181. (CRIMINAL MISCEGENATION)
LOVING V. VIRGINIA, 388 U.S. 1 (1967) — VA. STATUTE UNCONSTITUTIONAL

## ARTICLE 2.

### *Marriage Licenses.*

**§ 51-6. Solemnization without license unlawful.**—No minister or officer shall perform a ceremony of marriage between any two persons, or shall declare them to be man and wife, until there is delivered to him a license for the marriage of the said persons, signed by the register of deeds of the county in which the marriage is intended to take place or by his lawful deputy. There must be at least two witnesses to the marriage ceremony.

Whenever a man and woman have been lawfully married in accordance with the laws of the state in which the marriage ceremony took place, and said marriage was performed by a justice of the peace or some other civil official duly authorized to perform such ceremony, and the parties thereafter wish to confirm their marriage vows before an ordained minister or minister authorized by his church, nothing herein shall be deemed to prohibit such confirmation ceremony; provided, however, that such confirmation ceremony shall not be deemed in law to be a marriage ceremony, such confirmation ceremony shall in no way affect the validity or invalidity of the prior marriage ceremony performed by a civil official, no license for such confirmation ceremony shall be issued by a register of deeds, and no record of such confirmation ceremony may be kept by a register of deeds. (1871-2, c. 193, s. 4; Code, s. 1813; Rev., s. 2086; C. S., s. 2498; 1957, c. 1261; 1959, c. 338; 1967, c. 957, ss. 6, 9.)

**§ 51-18. Record of licenses and returns; originals filed.**—Every register of deeds shall keep a book (which shall be furnished on demand by the board of county commissioners of his county) on the first page of which shall be written or printed:

Record of marriage licenses and of returns thereto, for the county of ....., from the .... .. day of ....., 19.., to the ..... day of ....., 19.., both inclusive.

In said book shall be entered alphabetically, according to the names of the proposed husbands, the substance of each marriage license and the return thereupon, as follows: The book shall be divided by lines with columns which shall be properly headed, and in the first of these, beginning on the left, shall be put the date of issue of the license; in the second, the name in full of the intended husband with his residence; in the third, his age; in the fourth, his race and color; in the fifth, the name in full of the intended wife, with her residence, in the sixth, her age; in the seventh, her race and color; in the eighth, the name and title of the minister or officer who celebrated the marriage; in the ninth, the day of the celebration; in the tenth, the place of the celebration; in the eleventh, the names of two witnesses who signed the return as present at the celebration. The original license and return thereto shall be filed and preserved. (1871-2, c. 193, s. 9; Code, s. 1818; 1899, c. 541, s. 3; Rev., s. 2091; C. S., s. 2504; 1963, c. 429; 1967, c. 957, s. 8.)

**§ 52-6. Contracts of wife with husband affecting corpus or income of estate; authority, duties and qualifications of certifying officer; certain conveyances by married women of their separate property.**—(a) No contract between husband and wife made during their coverture shall be valid to affect or change any part of the real estate of the wife, or the accruing income thereof for a longer time than three years next ensuing the making of such contract, nor shall any separation agreement between husband and wife be valid for any purpose, unless such contract or separation agreement is in writing, and is acknowledged before a certifying officer who shall make a private examination of the wife according to the requirements formerly prevailing for conveyance of land.

(b) The certifying officer examining the wife shall incorporate in his certificate a statement of his conclusions and findings of fact as to whether or not said contract is unreasonable or injurious to the wife. The certificate of the officer shall be conclusive of the facts therein stated but may be impeached for fraud as other judgments may be.

(c) Such certifying officer must be a justice, judge, magistrate, clerk, assistant clerk or deputy clerk of the General Court of Justice or the equivalent or corresponding officers of the state, territory or foreign country where the acknowledgment and examination are made and such officer must not be a party to the contract.

(1969, c. 44, s. 54; 1973, c. 1446, s. 10.)

(d) This section shall not apply to any judgment of the superior court or other State court of competent jurisdiction, which, by reason of its being consented to by a husband and his wife, or their attorneys, may be construed to constitute a contract between such husband and wife.

(e) Any other provisions of this section to the contrary notwithstanding, in all cases where a married woman owning property as an individual joins with her husband in execution of a deed conveying her real property to a third party and said third party reconveys said real property to said wife and her husband as tenants by the entirety and in the deed to the third party the acknowledgment as herein provided was not complied with, but in all other respects the acknowledgment of the execution of said deed and the probate and registration thereof are regular, such conveyances shall not be void but shall be voidable only, and any action, the purpose of which is to have said conveyances set aside or declared invalid shall be commenced within seven (7) years after the recordation of such deed in the office of the register of deeds of the county or counties in which said real property is located. If no such action is or has been brought then the effect of the conveyances shall be to create an estate by the entirety. (1871-2, c. 193, s. 27; Code, s. 1835; Rev., s. 2107; C. S., s. 2515; 1945, c. 73, s. 19; 1947, c. 111; 1951, c. 1006, s. 2; 1955, c. 1082; 1957, c. 1229, s. 1; 1963, c. 909, ss. 1, 4; 1965, c. 878, s. 1.)

Related Statute : §52-10.1

**§ 58-205. Rights of beneficiaries.**—When a policy of insurance is effected by any person on his own life, or on another life in favor of some person other than himself having an insurable interest therein, the lawful beneficiary thereof, other than himself or his legal representatives, is entitled to its proceeds against the creditors and representatives of the person effecting the insurance. The person to whom a policy of life insurance is made payable may maintain an action thereon in his own name. Every policy of life insurance made payable to or for the benefit of a married woman, or after its issue assigned, transferred, or in any way made payable to a married woman, or to any person in trust for her or for her benefit, whether procured by herself, her husband, or by any other person, and whether the assignment or transfer is made by her husband or by any other person, inures to her separate use and benefit and to that of her children, if she dies in his lifetime. (Const., Art. X, s. 7; 1899, c. 54, s. 59; Rev., ss. 4771, 4772; C. S., s. 6464.)

**§ 72-39. Inducing female to enter tourist camps, etc., for immoral purpose made misdemeanor.**—Any person who shall knowingly persuade, induce or entice, or cause to be persuaded, induced or enticed, any woman or girl to enter any establishment within the meaning of this article for the purpose of prostitution or debauchery, or for any other immoral purpose, shall be deemed guilty of a misdemeanor and upon conviction thereof shall be fined or imprisoned in the discretion of the court. (1939, c. 188, s. 9.)

**§ 94-7. Contents of agreement.** — Every apprentice agreement entered into under this chapter shall contain:

(1) The names of the contracting parties.

(2) The date of birth of the apprentice.

(3) A statement of the trade, craft, or business which the apprentice is to be taught, and the time at which the apprenticeship will begin and end.

(4) A statement showing the number of hours to be spent by the apprentice in work and the number of hours to be spent in related and supplemental instruction, which instruction shall be not less than one hundred forty-four hours per year: Provided, that in no case shall the combined weekly hours of work and of required related and supplemental instruction of the apprentice exceed the maximum number of hours of work prescribed by law for a person of the age and sex of the apprentice.

(5) A statement setting forth a schedule of the processes in the trade or industry division in which the apprentice is to be taught and the approximate time to be spent at each process.

(6) A statement of the graduated scale of wages to be paid the apprentice and whether the required school time shall be compensated.

(7) A statement providing for a period of probation of not more than five hundred hours of employment and instruction extending over not more than four months, during which time the apprentice agreement shall be terminated by the Director at the request in writing of either party, and providing that after such probationary period the apprentice agreement may be terminated by the Director by mutual agreement of all parties thereto, or canceled by the Director for good and sufficient reason. The Council at the request of a joint apprentice committee may lengthen the period of probation.

(8) A provision that all controversies or differences concerning the apprentice agreement which cannot be adjusted locally in accordance with § 94-5 shall be submitted to the Director for determination.

(9) A provision that an employer who is unable to fulfill his obligation under the apprentice agreement may with the approval of the Director transfer such contract to any other employer: Provided, that the apprentice consents and that such other employer agrees to assume the obligations of said apprentice agreement.

(10) Such additional terms and conditions as may be prescribed or approved by the Director not inconsistent with the provisions of this chapter. (1939, c. 229, s. 7; 1945, c. 729, s. 1.)

**§ 94-8. Approval of apprentice agreements; signatures.** — No apprentice agreement under this chapter shall be effective until approved by the Director. Every apprentice agreement shall be signed by the employer, or by an association of employers or an organization of employees as provided in § 94-9, and by the apprentice, and if the apprentice is a minor, by the minor's father: Provided, that if the father be dead or legally incapable of giving consent or has abandoned his family, then by the minor's mother; if both father and mother be dead or legally incapable of giving consent, then by the guardian of the minor. Where a minor enters into an apprentice agreement under this chapter for a period of training extending into his majority, the apprentice agreement shall likewise be binding for such a period as may be covered during the apprentice's majority. (1939, c. 229, s. 8.)

## Article 2.

*Maximum Working Hours.*

**§ 95-17. Limitations of hours of employment; exceptions.**—No employer shall employ a person for more than 56 hours in any one week, or more than 12 days in any period of 14 consecutive days or more than 10 hours in any one day, except that in case where two or more shifts of eight hours each or less per day are employed, any shift employee may be employed not to exceed double his regular shift hours in any one day whenever a fellow employee in like work is prevented from working because of illness or other cause: Provided, also, that the 10 hours per day maximum shall not apply to any employee when his employment is required for a longer period on account of an emergency due to breakdown, installation or alteration of equipment.

No provision in this Article shall be deemed to authorize the employment of any minor in violation of the provisions of any law expressly regulating the hours of labor of minors under 18 years of age or of any regulations made in pursuance of such laws.

Where the day is divided into two or more work periods for the same employee, the employer shall provide that all such periods shall be within 12 consecutive hours, except that in the case of employees of motion picture theatres, restaurants, dining rooms, and public eating places, such period shall be within 14 consecutive hours:

Provided, that the transportation of employees to and from work shall not constitute any part of the employees' work hours.

Nothing in this section or any other provisions of this Article shall apply to the employment of persons in agricultural occupations, cotton gins or in domestic service in private homes and boardinghouses, or to the work of persons over 18 years of age in bona fide office, foremanship, clerical or supervisory capacity, executive positions, learned professions, commercial travelers, seasonal hotels and club houses, commercial fishing or fruit and vegetable processing plants, employers employing a total of not more than three persons in each place of business, charitable institutions and hospitals: Provided further, that nothing in this section or in any other provision of this Article shall apply to railroads, common carriers and public utilities subject to the jurisdiction of the Interstate Commerce Commission or the North Carolina Utilities Commission, and utilities operated by municipalities or any transportation agencies now regulated by the federal government: Provided further, that the limitation on daily and weekly hours and the number of days in any period of 14 consecutive days provided for in this section shall not apply to any employee 18 years of age and over whose employment is covered by or in compliance with the Fair Labor Standards Act of 1938 (Public [Law] No. 718; 75th Congress; Chapter 676-3rd Session), as amended or as same may be amended: Provided, nothing in this Article shall apply to the State or to municipal corporations or their employees.

Provided further, nothing contained in this Article shall be construed to limit the hours of employment of any outside salesmen on commission basis: Provided, that this Article shall not apply to retail or wholesale florists nor to employees of retail or wholesale florists during the following periods of each year: one week prior to and including Easter, one week prior to and including Christmas, and one week prior to and including Mother's Day. (1937, c. 406; c. 409, s. 3; 1939, c. 312, s. 1; 1943, c. 59; 1947, c. 825; 1949, c. 1057; 1959, c. 629; 1961, c. 1070; 1965, c. 724; 1967, c. 998; 1973, c. 660, s. 1.)

**§ 95-48. Separate toilets required.**—In the interest of public health and in compliance with G. S. 130-160 and 143-138, adequate, well-lighted and ventilated toilet facilities plainly lettered and marked, for each sex shall be provided and maintained in a sanitary condition by all persons and corporations employing both males and females. Such toilet facilities shall be separated by full and substantial walls. (1913, c. 83, s. 1; C. S., s. 6559; 1963, c. 1114, s. 1.)

**§ 95-49. Intruding on toilets unlawful.** — It shall be unlawful, and punishable as provided in G. S. 95-50, for any employee to wilfully intrude or use any toilet not intended for his or her sex. (1913, c. 83, s. 4; C. S., s. 6560; 1963, c. 1114, s. 2.)

**§ 95-50. Punishment for violation of article.** — If any person, firm, or corporation refuses to comply with the provisions of this article, he or it shall be guilty of a misdemeanor, and upon conviction shall be fined or imprisoned, or both, in the discretion of the court. (1913, c. 83, s. 2; 1919, c. 100, s. 12; C. S., s. 6561.)

**§ 95-51. Police in towns to enforce article.**—The police officers of any town or city shall investigate the places of business of any person or corporation employing males and females and see that the provisions of this article are put in force, and shall swear out a warrant before the mayor or other proper officer of any town or city and prosecute all persons, corporations, and managers of corporations violating any of the provisions of this article. (1913, c. 83, s. 3; C. S., s. 6562.)

**§ 95-52. Sheriff in county to enforce Article.**—When any persons or corporations locate their manufacturing plant or other business outside of any city or town, the sheriff of the county shall investigate the condition of the toilets used by such manufacturing plant or business and see that the provisions of this Article are complied with, and shall swear out a warrant and prosecute anyone violating the provisions of this Article. (1913, c. 83, s. 5; C. S., s. 6563; 1973, c. 108, s. 42.)

**§ 95-53. Enforcement by Department of Labor.**—The Department of Labor shall investigate the places of business of any person or corporation employing males and females, and shall make such rules and regulations for enforcing and carrying out this article as may be necessary. (1919, c. 100, s. 7; C. S., s. 6563(a); 1931, c. 312, ss. 12, 14.)

**§ 99-4. Charging innocent woman with incontinency.**—Whereas doubts have arisen whether actions of slander can be maintained against persons who may attempt, in a wanton and malicious manner, to destroy the reputation of innocent and unprotected women, whose very existence in society depends upon the unsullied purity of their character, therefore any words written or spoken of a woman, which may amount to a charge of incontinency, shall be actionable. (1808, c. 478; R. C., c. 106; Code, s. 3763; Rev., s. 2015; C. S., s. 2432.)

**§ 101-6. Effect of change; only one change.**—When the order is made and the applicant's name changed, he is entitled to all the privileges and protection under his new name as he would have been under the old name. No person shall be allowed to change his name under this Chapter but once, except that he shall be permitted to resume his former name upon compliance with the requirements and procedure set forth in this Chapter for change of name. (1891, c. 145; Rev., ss. 2147, 2149; C. S., s. 2975; 1945, c. 37, s. 2.)

**§ 105-149. Exemptions.** — (a) There shall be deducted from the net income the following exemptions:

(1) In the case of a single individual, a personal exemption of one thousand dollars ($1,000).

(2) In the case of a married man with a wife living with him, two thousand dollars ($2,000). Provided, that a husband living with his wife may by agreement with his wife allow her to claim the two thousand dollars ($2,000) exemption provided in this subsection and the husband in such case shall be entitled to claim an exemption of only one thousand dollars ($1,000), in which case the husband must file a return for the same year, regardless of whether he shall have reportable income for such year, and shall claim thereon only a one thousand dollar ($1,000) exemption exclusive of any other exemptions to which he may be entitled under this subsection.

(2a) In the case of an individual who qualifies as "head of household" as defined in subdivision (8) of G.S. 105-135, two thousand dollars ($2,000), but the "head of household" exemption shall not be allowable to a married woman living with her husband except as provided in subsection (c)(2) of this section. The "head of household" exemption shall be in lieu of and not in addition to the exemptions established in subdivisions (1), (2), (4), (6) and (7) of subsection (a). Only one "head of household" exemption shall be allowable with respect to any one household, as the term "household" is defined in subdivision (8) of G.S. 105-135, and no individual shall be entitled to more than one "head of household" exemption.

(3) A married woman having a separate and independent income, one thousand dollars ($1,000).

(4) In the case of a widow or widower having minor child or children, natural or adopted, two thousand dollars ($2,000).

(5) Six hundred dollars ($600.00) for each dependent (as defined below) whose gross income for the calendar year in which the taxable year of the taxpayer begins is less than one thousand dollars ($1,000), or who is a child of the taxpayer either under 19 years of age or a student regularly enrolled for full-time study in a school, college, or other institution of learning. For the purpose of the preceding sentence, the term "child" means an individual who is a son or daughter (natural or adopted), or a stepson or stepdaughter of the taxpayer.

An additional exemption of six hundred dollars ($600.00) for a dependent (as defined in this subdivision) who is a full-time student at an accredited college or university or other institution of higher learning under such rules or regulations as may be prescribed by the Secretary of Revenue. For the purposes of this paragraph, the words "full-time student" shall mean a dependent enrolled in full-time study on the last day of the income year or enrolled for full-time study for a period of at least five months (whether or not consecutive) during the income year.

For the purposes of this subsection, the term "dependent" means any of the following individuals over half of whose support, for the calendar year in which the taxable year of the taxpayer begins, was received from the taxpayer:

a. A son or daughter (or a descendent of either), a stepson, or stepdaughter, a brother or sister (including a brother or sister of the half blood), a stepbrother, stepsister, father or mother (or an ancestor of either), a stepfather, a stepmother, a son or daughter of a brother or sister, a brother or sister of the father or mother, a son-in-law, a daughter-in-law, a father-in-law, a mother-in-law, a brother-in-law, or a sister-in-law of the taxpayer;

b. An individual who was a member of the same household as the taxpayer;

c. A former member of the same household as the taxpayer or an individual who otherwise qualifies as a dependent of the taxpayer, who for the taxable year of such taxpayer receives institutional care required by reason of a physical or mental disability.

The exemption provided in this subdivision for children of taxpayers shall be allowed only to the person claiming the two thousand dollar ($2,000) exemption provided in subdivision (2) of this subsection except, however, that where husband and wife are divorced and have children of their marriage for which they would otherwise be entitled to an exemption hereunder, the parent furnishing the chief support of his (or her) child during the income year shall be entitled to said exemption, irrespective of whether said parent has custody of said child or children or is head of the household during said year.

For the purpose of determining the chief support of an individual other than a son or daughter (natural or adopted) or a stepson or stepdaughter of the taxpayer, over one half of the support of the individual for the calendar year shall be treated as received from the taxpayer if:

a. No one individual contributed over half of such support;

b. Over half of such support was received from individuals each of whom, but for the fact that he did not contribute over half of such support, would have been entitled to claim such individual as a dependent for a taxable year beginning in such calendar year;

c. The taxpayer contributed over ten percent (10%) of such support; and

d. Each individual described in paragraph b (other than the taxpayer) who contributed over ten percent (10%) of such support files a written declaration (in such manner and form as the Secretary of Revenue may prescribe) that he will not claim such individual as a dependent for any taxable year beginning in such calendar year.

Nothing in this subdivision shall be construed to allow one spouse to claim a six-hundred-dollar ($600.00) exemption for the other spouse.

(6) In the case of a fiduciary filing a return for the net income received during the income year of a deceased resident or nonresident individual who has died during the tax year or income year without having made a return, two thousand dollars ($2,000) if the individual was a married man, and one thousand dollars ($1,000) if the individual was single or a married woman not qualifying as "head of a household."

In the case of a fiduciary filing a return for an insolvent or incompetent individual resident or nonresident where the fiduciary has complete charge of such net income the same exemption to which the beneficiary would be entitled.

(7) In the case of a divorced person having the sole custody of a minor child or children and receiving no alimony for the support of himself, herself, child, or children two thousand dollars ($2,000).

(8) In the case of any person who is totally blind, such person shall be entitled to an additional exemption of one thousand dollars ($1,000) in addition to all other exemptions allowed by law. Provided, such person shall submit to the Department of Revenue a certificate from a

## Article 1.

### *Child Labor Regulations.*

§ 110-1. **Minimum age.**—No minor under sixteen years of age shall be employed, permitted or allowed to work in, about, or in connection with any gainful occupation at any time: Provided, that minors between fourteen and sixteen years of age may be employed outside school hours and during school vacations, but not in a factory or in any occupation otherwise prohibited by law; and provided, that boys twelve years of age and over securing a certificate from the Department of Labor, may be employed outside school hours in the sale or distribution of newspapers, magazines or periodicals subject to the provisions of § 110-8 relating to employment of minors in street trades and to such rules and regulations as may be provided under § 95-11. Nothing in this article shall be construed to apply to the employment of a minor engaged in domestic or farm work performed under the direction or authority of the minor's parent or guardian. (1937, c. 317, s. 1.)

§ 110-2. **Hours of labor.**—No minor under sixteen years of age shall be employed, permitted or allowed to work in, about or in connection with any gainful occupation more than six consecutive days in any one week, or more than forty hours in any one week, or more than eight hours in any one day, nor shall any minor under sixteen years of age be so employed, permitted or allowed to work before seven o'clock in the morning or after seven o'clock in the evening of any day, or after nine o'clock on days when schools are not in session. No minor over sixteen years of age and under eighteen years of age shall be employed, permitted or allowed to work in or about or in connection with any gainful occupation for more than six consecutive days in any one week, or more than forty-eight hours in any one week, or more than nine hours in any one day, nor shall any minor between sixteen and eighteen years of age be so employed, permitted or allowed to work before six o'clock in the morning or after twelve o'clock midnight of any day, except boys between the ages of sixteen and eighteen may be permitted to work until one o'clock in the morning as messengers where the offices of the company for which they work do not close before that hour: Provided, that boys twelve years of age and over, employed in the sale or distribution of newspapers, magazines or periodicals outside school hours shall be subject to the provisions of § 110-8 relating to employment of minors in street trades, and to such rules and regulations as may be provided under § 95-11: Provided further, that minors under eighteen years of age may be employed in a concert or a theatrical performance, under such rules and regulations as the State Commissioner of Labor may prescribe, up to twelve o'clock midnight; and provided further, that telegraph messenger boys in towns where a full-time service is not maintained on Sundays may work seven days per week, but not for more than two hours on Sunday. The combined hours of work and hours in school of children under sixteen employed outside school hours shall not exceed a total of eight per day. (1937, c. 317, s. 2; 1951, c. 1187, s. 1; 1967, cc. 173, 764; 1969, c. 962.)

§ 110-7. **Hazardous occupations prohibited for minors under 18.**—No minor under the age of 18 years shall be employed, permitted, or allowed to work at any processes where quartz or any other form of silicon dioxide or an asbestos silicate is present in powdered form, or at work involving exposure to lead or any of its compounds in any form, or at work involving exposure to benzol or any benzol compound which is volatile or which can penetrate the skin, or at work in spray painting, or in the handling of unsterilized hides or animal or human hair. Nor shall any minor under 18 be employed or permitted to work in, about or in connection with any establishment where alcoholic liquors are distilled, rectified, compounded, brewed, manufactured, bottled, sold, or dispensed, or in a pool or billiard room: Provided, however, that this section shall not prohibit a minor under the age of 18 years from working in any establishment where beer is sold and not consumed on the premises, and to which has been issued only an "off premises" license for the sale of beer. Nor shall any girl under the age of 18 years be employed, permitted or allowed to work as a messenger in the distribution or delivery of goods or messages for any person, firm or corporation engaged in the business of transmitting or delivering goods or messages. . . .

§ 110-8. **Employment of minors in street trades; sales or distribution of newspapers, etc.**—No boy under fourteen years of age and no girl under eighteen years of age shall distribute, sell, expose or offer for sale newspapers, magazines, periodicals, candies. drinks, peanuts, or other merchandise in any street or public place, or exercise the trade of bootblack in any street or public place. No boy under sixteen years of age shall be employed or permitted or allowed to work at any of the trades or occupations mentioned in this section after seven P.M. or before six A.M., or unless he has an employment certificate issued in accordance with § 110-9. The State Commissioner of Labor shall have authority to make, promulgate and enforce such rules and regulations as he may deem necessary for the enforcement of this section, not inconsistent with this article or existing law.

Nothing in this section shall be construed to prevent male persons over fourteen years of age from distributing newspapers, magazines and periodicals on fixed routes, seven days per week: Provided, that such persons shall not be employed nor allowed to work after eight o'clock P.M. and before five o'clock A.M., and that the hours of work and the hours in school do not exceed eight in any one day, except boys twelve years of age and over who have secured a certificate from the Department of Labor for the sale or distribution of newspapers, magazines or periodicals: Provided further, that such person shall not be permitted or allowed to work more than four hours per day nor more than twenty-four hours per week: Provided further, that nothing in this article shall be construed to prevent boys twelve years of age and over, upon securing a proper certificate from the Department of Labor, from being employed outside school hours in the sale or distribution of newspapers, magazines and periodicals (where not more than seventy-five customers are served in one day): Provided, that such boys shall not be employed between the hours of seven o'clock P.M. and six o'clock A.M., nor for more than ten hours in any one week. (1937, c. 317, s. 8.)

§ 110-64. **Proceedings for return of runaways under Article IV of compact; "juvenile" construed.**—The judge of any court in North Carolina to which an application is made for the return of a runaway under the provisions of Article IV of the Interstate Compact on Juveniles shall hold a hearing thereon to determine whether for the purposes of the compact the petitioner is entitled to the legal custody of the juvenile, whether or not it appears that the juvenile has in fact run away without consent, whether or not he is an emancipated minor, and whether or not it is in the best interest of the juvenile to compel his return to the state. The judge of any court in North Carolina finding that a requisition for the return of a juvenile under the provisions of Article IV of the compact is in order shall upon request fix a reasonable time to be allowed for the purpose of testing the legality of the proceeding. The period of time for holding a juvenile in custody under the provisions of Article IV of the compact for his own protection and welfare, subject to the order of a court of this State, to enable his return to another state party to the compact pursuant to a requisition for his return from a court of that state, shall not exceed 30 days. In applying the provisions of Article IV of the compact to secure the return of a runaway from North Carolina, the courts of this State shall construe the word "juvenile" as used in this Article to mean any male 16 years of age or under and any female 17 years of age or under. (1965, c. 725, s. 2; 1971, c. 1231, s. 2.)

## Article 1.

### *Confederate Woman's Home.*

**§ 112-1. Incorporation and powers of Association.** — Julian S. Carr, John Thorp, Robert H. Ricks, Robert H. Bradley, E. R. Preston, Simon B. Taylor, ...eph F. Spainhour, A. D. McGill, M. Leslie Davis, T. T. Thorne, and W. A. ...er, together with their successors in office, are constituted a body politic ...d corporate under the name and style of Confederate Woman's Home ...ociation, and by that name may sue and be sued, purchase, hold and sell ...al and personal property, and have all the powers and enjoy all the privileges ...a charitable corporation under the law enabling them to establish, maintain, ...d govern a home for the deserving wives, daughters and widows of ...rth Carolina Confederate Soldiers.

The corporation may solicit and receive donations in money or property for the purpose of obtaining a site on which to erect its buildings, for equipping, furnishing and maintaining them, or for any other purpose whatsoever; and said corporation may invest its funds to constitute an endowment fund. Said corporation shall have a corporate existence until January 1, 1980. It shall also have the power to solicit and receive donations for the purpose of aiding indigent Confederate women at their homes in the various counties of the State, and shall have all powers necessary to this end. (1913, c. 62, s. 1; C. S., s. 5134; 1949, c. 121; 1953, c. 62; 1959, c. 222; 1969, c. 116.)

**§ 112-5. Reversion of property.** — If the land on which the said Home shall be located or used in connection therewith shall at any time cease to be used for that purpose, or for the use and benefit of the dependent wives and widows of the Confederate soldiers as herein specified, or other worthy indigent Confederate women of this State, the same shall revert to the person or persons donating the same, if it has been acquired entirely by donations; otherwise, it shall revert to the State; but in all cases of nonuser for the said purpose, the buildings thereon, the furniture and equipment generally of every nature, shall revert and belong to the State. (1913, c. 62, s. 4; C. S., s. 5138.)

**§ 112-14. Persons disabled in militia service; their widows and orphans.** — Every person who may have been disabled by wounds in the militia service of the State, or rendered incapable thereby of procuring subsistence for himself and family, and the widows and orphans of such persons who may have died from such wounds, or from disease contracted in such service, shall be entitled to pensions as hereinafter provided for Confederate soldiers. (R. C., c. 84; Code, s. 3472; Rev., s. 4990; C. S., s. 5147.)

**§ 112-16. Helpless or demented widows of Confederate soldiers.** — Every widow of a Confederate soldier who married and was widowed prior to one thousand eight hundred and sixty-six and who has not remarried and who bore and raised legitimate child or children of the deceased Confederate soldier, and who has lost her mind, or become helpless, and is not confined in an asylum, or is not an inmate of any charitable institution, shall receive the same pay and in the same manner as blind Confederate soldiers. (1923, c. 3; C. S., s. 5168(h).)

**§ 112-18. Classification of pensions for soldiers and widows.**—There shall be paid out of the treasury of the State, on the warrant of the Auditor, to every person who has been for twelve months immediately preceding his application for pension a bona fide resident of the State, and who is incapacitated for manual labor, and was a soldier or sailor in the service of the Confederate States of America during the War between the States, and to the widow of any deceased officer, soldier, or sailor who was in the service of the Confederate States of America during the War between the States, if such widow was married to such soldier, or sailor, prior to the date set forth in the widow's classification in this section, and if she has married again, is widow at the date of her application, the following sums annually, according to the degree of disability ascertained by the following grades:

Class "A." To all Confederate soldiers not included in § 112-17, who are now disabled from any cause to perform manual labor, twelve hundred dollars ($1200.00).

Class "B." To such colored servants who went with their masters to the war and can prove their service to the satisfaction of the county and State pension boards, four hundred and fifty-six dollars ($456.00).

Widows

Class "A." To the widows of ex-Confederate soldiers who are blind in both eyes or totally helpless, nine hundred dollars ($900.00).

Class "B." To the widows of ex-Confederate soldiers who were married to such soldiers on or before January first, eighteen hundred and eighty, and to such widows who were married to such soldiers subsequent to January first, eighteen hundred and eighty, and who are now on the pension rolls, by virtue of previous statutes, four hundred ninety-two dollars ($492.00). Provided, that the State Board of Pensions upon the recommendation of the county pension board, may add to Class B list of pensions such widows of Confederate veterans who were married to the deceased veterans prior to the year one thousand eight hundred and ninety-nine and who are now more than sixty years of age, as in the judgment of the State Board of Pensions are meritorious and deserving, and who from old age or other afflictions are unable to earn their own living. (1921, c. 189, s. 9; Ex. Sess. 1921, c. 89; C. S., s. 5168(j); Ex. Sess. 1924, c. 111; 1927, c. 96, s. 2; 1929, c. 300, s. 1; 1935, c. 46; 1937, c. 318; 1945, c. 699, s. 1; c. 1051, ss. 1-3; 1949, c. 1158, ss. 1-4; 1953, c. 1225; 1957, c. 1395, s. 1.)

**§ 112-19. Certain widows of Confederate soldiers placed on Class B pension roll.**—All widows of Confederate soldiers who have lived with such soldiers for a period of five years prior to the death of such soldier, or for any period of time if a child was born of said marriage, and where the death of the soldier occurred since the year one thousand eight hundred ninety-nine, shall, upon proper proof of such facts, be placed upon the pension list in Class B, and paid from the pension fund such pensions as are allowed to other widows of Confederate soldiers in Class B: Provided, that no payments shall be made to any widows of Confederate soldiers as hereinbefore referred to, except and until they shall have qualified for said benefits under and pursuant to the general State pension laws as modified hereby. (1937, cc. 181, 454; 1953, c. 1169; 1959, c. 1004.)

**§ 112-21. Removal from pension lists of persons eligible for old a assistance.** — All widows of Confederate veterans and all colored servants Confederate soldiers who are eligible for aid to the aged or disabled under t provisions of chapter 108 of the General Statutes, from and after the first day June one thousand nine hundred thirty-nine, shall not be entitled to any pens provided by the provisions of chapter 112, entitled "Confederate Homes a Pensions," and any acts of the General Assembly amendatory thereof, or b virtue of any special or general law relating to pensions for widows of Confedera veterans or colored servants of Confederate soldiers.

Before the first day of June, one thousand nine hundred thirty-nine, the coun board of social services in every county in this State shall make a complete a thorough examination and investigation of all widows of Confederate veterans a all colored servants of Confederate soldiers whose names are on the pension roll each county, and shall determine the eligibility of such pensioners for aid to t aged or disabled under the provisions of chapter 108 of the General Statutes wit out any applications being made by such persons for aid to the aged or disab as required by said law, and after making such investigation, shall determine t eligibility of such persons for old age assistance and the amount of assista which any such person is entitled to receive in accordance with the provisions the Old Age Assistance Act. After such investigations and determinations ha been made, the county board of social services shall notify the county pension boa in the county of such county board of social services of the persons who are found be eligible for old age assistance under the provisions of said law. Upon suc certification to the county pension board, the county pension board shall revi the list of pensioners in said county and shall exclude from said list all the widow of Confederate veterans and all colored servants of Confederate soldiers who a certified as being eligible for old age assistance. The county pension board sha upon receipt of such certification from the county board of social services, and r vision of the pension list as aforesaid, notify the State Board of Pensions of the r vision of the pension list for said county and the names eliminated therefrom. T county board of social services, in making the aforesaid certification to the coun pension board, shall also send a copy thereof to the State Board of Pensions, and su certification from the county board of social services to the State Board of Pensi shall be sufficient authority for removal of such names from the pension list b the State Board of Pensions. If it should thereafter be determined that suc person so removed from the pension list was not eligible for old age assistan by the authority administering said law, the award for old age assistance to suc person is revoked, the name of such person, if otherwise eligible, shall be re stored to the said pension list by the county pension board, and the full pensio to which such person would be entitled, if the name had not been withdra from said list, shall be paid. . . .

**§ 112-33. County payment of burial expenses.** — Whenever in any county of this State a Confederate pensioner on the pension roll of the county or the widow of a Confederate soldier shall die, it shall be the duty of the board of commissioners of such county, upon the certificate of such fact by the clerk of the superior court and recommendation of the chairman of the pension board of the county, to order the payment out of the general fund of the county of a sum not exceeding thirty dollars ($30), to be applied toward defraying the burial expenses of such deceased pensioner or widow. (1921, c. 189, s. 24; C. S., s. 5168(y).)

**§ 122-49. Female ~~patient~~ to be accompanied by female attendant or member of the family.**—Each female patient must be accompanied to the hospital by a member of her family; if a member of her family is not available, she must be accompanied by a female designated by the county director of public welfare of the county of the patient's residence or admission. The expenses of the female attendant are to be borne by the county commissioners of the county of the patient's residence. (1919, c. 326, s. 4; C. S., s. 6201; 1945, c. 952, s. 29; 1953, c. 256, s. 6; 1961, c. 186; 1963, c. 1184, s. 1.)

**§ 127-1. Composition and classes of militia.** — The militia of the State shall consist of all able-bodied citizens of the State and of the United States who are not exempt by reason of aversion to bearing arms, from religious scruples; together with all other able-bodied persons who are, or have or shall have declared their intention to become, citizens of the United States, subject to such qualifications as may be hereinafter prescribed, who shall voluntarily enlist or accept commission, appointment or assignment to duty therein; provided, no female citizen shall be subject to draft into the militia of the State. The militia shall be divided into five classes: the national guard, the naval militia, historical military commands, the State defense militia, and the unorganized militia. (1917, c. 200, s. 1; C. S., s. 6791; 1949, c. 1130, s. 1; 1957, c. 1043, s. 1; 1963, c. 1016, s. 2; 1967, c. 563, s. 1.)

**§ 127-3. Composition of naval militia.** — The naval militia shall consist of the regularly enlisted militia between the ages of 17 and 45 years, organized, armed, and equipped as hereinafter provided, and commissioned officers between the ages of 21 and 62 years (naval branch), and 21 and 64 years (marine corps branch); but enlisted men may continue in the service after the age of 45 years, and until the age of 62 years (naval branch), or 64 years (marine corps branch), provided the service is continuous. (1917, c. 200, s. 3; C. S., s. 6793; 1949, c. 1130, s. 1.)

**§ 127-82. Pay and care of soldiers and airmen disabled in service.** — A member of the national guard, the State defense militia, or the naval militia who without fault or negligence on his part is disabled through illness, injury, or disease contracted or incurred while on duty or by reason of duty in the service of the State or while reasonably proceeding to or returning from such duty shall receive the actual necessary expenses for care and medicine and medical attention at the expense of the State and if such shall temporarily incapacitate him for pursuing his usual business or occupation he shall receive during such incapacity the pay and allowances as are provided for the same grade and rating in like circumstances in the active armed forces of the United States. If such member is permanently disabled, he shall receive the pensions and rewards that persons under similar circumstances in the military service of the United States receive from the United States. In case any such member shall die as a result of such injury, illness, or disease within one year after it has been incurred or contracted, the widow, minor children, or dependent parents of the member shall receive such pension and rewards as persons under similar circumstances receive from the United States.

The cost incurred by reason of this section shall be paid out of the Contingency and Emergency Fund, or such other fund as may be designated by law.

The Adjutant General, with the approval of the Governor, shall make and publish such regulations pursuant to this section as may be necessary for its implementation. Before the name of any person is placed on the disability or pension rolls of the State under this section, proof shall be made in accordance with such regulations that the applicant is entitled to such care, pension, or reward.

Nothing herein shall in any way limit or condition any other payment to such member as by law may be allowed: Provided, however, any payments made under the provisions of Chapter 97 of the General Statutes or under federal statutes as now or hereafter amended shall be deducted from the payments made under this section. (1917, c. 200, s. 54; C. S., 6868; 1959, c. 218, s. 19; c. 763; 1965, c. 1058.)

**§ 127-108. Placing name on muster roll wrongfully.** — If any officer of the militia of the State shall knowingly or willfully place, or cause to be placed, on any muster roll the name of any person not regularly or lawfully enlisted, or the name of any enlisted man who is dead or who has been discharged, transferred, or has lost membership for any cause whatsoever, or who has been convicted of any infamous crime, he shall be guilty of a misdemeanor. (1893, c. 374, s. 33; Rev., s. 3539; C. S., s. 6895.)

**§ 127-109. Protection of the uniform.** — It shall be unlawful for any person not an officer or enlisted man in the armed forces of the United States to wear the duly prescribed uniform of the armed forces of the United States, or any distinctive part of such uniform, or a uniform any part of which is similar to a distinctive part of the duly prescribed uniform of the armed forces of the United States; provided, that the foregoing provisions shall not be construed so as to prevent officers or enlisted men of the national guard or State defense militia from wearing, in pursuance of law and regulations, the uniform lawfully prescribed to be worn by such officers or enlisted men;

## ARTICLE 12.

*State Defense Militia.*

**§ 127-111. Authority to organize and maintain State defense militia of North Carolina.**—(a) The Governor is authorized, subject to such regulations as the Secretary of Defense may prescribe, to organize such part of the unorganized militia as a State force, for discipline and training, into companies, battalions, regiments, brigades or similar organizations, as may be deemed necessary for the defense of the State; to maintain, uniform, and equip such military force within the appropriation available; to exercise discipline in the same manner as is now or may be hereafter provided by the State laws for the national guard; to train such force in accordance with training regulations issued by the Secretary of Defense. Such military force shall be subject to the call or order of the Governor to execute the law, suppress riots or insurrections, or to repel invasion, as may now or hereafter be provided by law for the national guard or for the State militia.

(b) Such military force shall be designated as the "North Carolina State Defense Militia" and shall be composed of personnel of the unorganized militia as may volunteer for service therein or drafted as provided by law. To be eligible for service in an enlisted status, a person must be at least 17 years of age and under 50 years of age, or under 64 years of age and a former member of the armed forces of the United States. To be eligible for service as an officer, a male must be at least 18 years of age and under 64, and a female at least 21 years of age and under 64. The force and its personnel shall be additional to and distinct from the national guard organized under existing law. A person may not become a member of the defense militia established under this section, if a member of a reserve component of the armed forces.

Related Statute: § 127-111.1 (c)

**§ 128-15. Employment preference for veterans and their wives or widows.**—Hereafter, in all examinations of applicants for positions with this State or any of its departments, institutions or agencies, a preference rating of ten (10) points shall be awarded to all the citizens of the State who served the State or the United States honorably in either the army, navy, marine corps, nurses' corps, air corps, air force, or any of the armed services in time of war, including the Korean war or conflict and including all citizens of the State who served in any of the armed services at any time between January 31, 1955, and the end of hostilities in Vietnam in which the United States is involved.

All the departments, or institutions of the State, or their agencies, shall give preference in appointments and promotional appointments to qualified veteran applicants as enumerated in this section in filling vacant positions in construction or maintenance of public buildings and grounds, construction of highways or any other employment under the supervision of the State or its departments, institutions, or agencies; provided, that the provisions of this section shall apply to the widows of such veterans and to the wives of disabled veterans. No State department, officer, institution or agency of the State shall bar or prohibit any veteran or person named in this section from employment because of age if such veteran or person is otherwise qualified.

In all promotional examinations a preference rating of one point for each year, or greater fraction thereof, of service in time of war, including the Korean conflict, and including service in any of the armed forces at any time between January 31, 1955, and the end of hostilities in Vietnam in which the United States is involved, shall be awarded in all departments of this State, institutions or agencies, to the veterans or persons named in this section; provided, that such points shall not exceed a total of 5 points. (1939, c. 8; 1953, c. 1332; 1967, c. 536.)

**§ 128-15.1. Section 128-15 applicable to persons serving in World War II.**—All the provisions for preference rating and preference of employment to citizens who served the State or the United States honorably in either the Army, Navy, Marine Corps or Nurses' Corps in time of war and to the widows of such veterans and the wives of disabled veterans provided in § 128-15 are hereby specifically made applicable to men and women who have served, are now serving, or shall serve in any branch of the armed services, Coast Guard and Coast Guard Reserve or the Nurses' Corps during the present war, and are honorably discharged from such service, and to the widows of such veterans and the wives of disabled veterans of the present war. (1943, c. 168; 1947, c. 412.)

**§ 130-50. Birth registration.**—(a) A certificate of birth for each live birth, regardless of the gestation period, which occurs in this State shall be filed with the local registrar of the district in which the birth occurs within five days after such birth and shall be registered by such registrar if it has been completed and filed in accordance with this section. Such certificate shall be on the form adopted and furnished by the State Registrar. When a birth occurs on a moving conveyance, a birth certificate shall be filed in the district in which the child was first removed from the conveyance. When a birth occurs in a hospital or other medical facility, the person in charge of the institution or his designated representative shall obtain the personal data, prepare the certificate, secure the signatures required by the certificate and file it with the local registrar. The physician in attendance shall certify to the facts of birth and provide the medical information required by the certificate within five days after the birth.

(b) When a birth occurs outside a hospital or other medical facility, the certificate shall be prepared and filed by one of the following in the indicated order of priority:

(1) The physician in attendance at or immediately after the birth, or in the absence of such a person,

(2) The midwife or any other person in attendance at or immediately after the birth, or in the absence of such a person,

(3) Either parent, or, in the absence of the father and the inability of the mother, the person in charge of the premises where the birth occurred.

(c) If the mother was married either at the time of conception or birth, the name of the husband shall be entered on the certificate as the father of the child and the surname of the child shall be the same as that of the husband, unless paternity has been determined otherwise by a court of competent jurisdiction in which case the name of the father as determined by the court shall be entered and the surname of the child shall be the same as that of the mother. If the mother was not married either at the time of conception or birth, the certificate shall be completed as provided in G.S. 130-54. (1913, c. 109, s. 13; 1915, c. 85, s. 1; C. S., s. 7101; 1957, c. 1357, s. 1; 1969, c. 1031, s. 1.)

**§ 130-54. Contents of birth certificate.**—The certificate of birth shall contain, as a minimum, those items prescribed and specified on the standard certificate of birth as prepared by the national agency in charge of vital statistics, except as the same may be amended or changed by the North Carolina State Registrar of Vital Statistics: Provided, that in case of a child born out of wedlock, the father's name shall not be shown on the certificate without his written consent under oath, and provided, further, that in case of a child born out of wedlock, the last name of the child shall be the same as that of the mother, or the person or persons caring for the child when such request is made by both the mother of the child and the person or persons caring for the child, or, if the mother of the child is deceased, or her whereabouts shall have been unknown for a period of three years, then the person or persons caring for such child may make such a request for such change. Where it has been adjudicated in a court of competent jurisdiction that a mother has abandoned her child, then the consent required of the mother by this section shall not be necessary. (1913, c. 109, s. 14; C. S., s. 7102; 1949, c. 161, s. 2; 1955, c. 951, s. 15; 1957, c. 1357, s. 1; 1969, c. 1031, s. 1.)

**§ 130-58.1. Investigations and petitions involving certain neglected illegitimate children; hearings; disposition of children.** — When it appears from the birth certificates filed with the Department of Human Resources that a child has been born to an unwed mother who had previously given birth to two or more children out of wedlock, said Department shall forward copies of such birth certificates to the local health director of the county of such mother's residence; and whenever it shall come to the attention of any local official that a child has been born to a woman by a father other than her husband, which woman had previously given birth to two or more children out of wedlock, such local official shall furnish such information to the local health director of the county of residence of such woman. The local health director to whom such information may come, shall thereupon, by registered or certified mail, notify such mother that she is, or may be, subject to the provisions of this section, and shall instruct her to report to the county director of social services in the county of her residence for consultation and advice within 15 days after receipt of such letter. A copy of such letter shall be mailed to the county director of social services in the county of such mother's residence. If the mother fails to report to the county director of social services within 15 days following receipt of the letter, then the county director shall thereupon begin the investigation hereinafter required.

In the course of the consultation and advice hereinabove provided for, the county director of social services shall make, or cause to be made through his own staff or through the staff of a private social agency, an investigation for the purpose of determining if such child, and any other children living with such mother, are living under such conditions, or are under such improper or insufficient guardianship or control, as to endanger the health or general welfare of any such child or children, within the meaning of subdivision (4) of G.S. 7A-278. If, upon such investigation, the county director of social services is of the opinion that such living conditions or surroundings, or such improper or insufficient guardianship or control of such child or children, are such as to endanger the health or general welfare of any such child or children, then said director or some person under his supervision, or the personnel of the private social agency hereinabove referred to, shall consult and advise with the mother of such child or children for the purpose and to the end that such conditions and surroundings be improved, and proper and sufficient guardianship and control be established. If, after such consultation and advice with said mother, such director is of the opinion that the health or general welfare of any such child or children is and will continue to be in danger, then such director shall thereupon file with the court a verified petition stating the alleged facts which bring such child or children within the provisions of the section, which said petition shall also contain all other information required by the provisions of G.S. 7A-281. Upon the filing of such petition, the issuance and service of summons and the making of any interlocutory orders shall be made in accordance with the provisions of G.S. 7A-282, 7A-283, and 7A-284. • • •

**§ 130-166.8. Sewerage facilities.**—Toilet facilities for each sex shall be provided in accordance with the provisions of G.S. 130-160. The minimum number of toilet seats shall be one for 20 users for each sex. Privies, when used, shall be located no farther than 200 feet from the dwelling units. (1963, c. 809, s. 1.)

**§ 130-166.9. Bathing facilities.** — Warm water (at least 90°) shall be made available for bathing facilities at each camp. In camps housing more than 15 workers, showers shall be provided on the ratio of one shower head for each 15 persons. Separate facilities shall be provided for each sex. (1963, c. 809, s. 1.)

**§ 131-36. Board of managers.** — For each hospital so established there shall be elected a board of managers, consisting of two members from each county in the group and of one member at large. The two members from each county shall be elected by a majority vote of their respective board of county commissioners, and the one member at large shall be elected from any one of the counties in the group at a meeting of and by a majority vote of the combined boards of commissioners of the several counties in the group. The member at large shall hold office for two years and the other members shall hold office for four years where there are only two counties in the group, and for six years where there are more than two counties in the group, unless sooner removed for cause by the combined boards of commissioners of the several counties in the group: Provided, that the commissioners of all the counties of the group at a joint meeting shall determine the length of the term of office of the various members of the board of managers first elected; one member to serve one, two, three and four years, respectively, if there are only two counties in the group; one member to serve one, two, three, four, five and six years respectively, if there are three counties in the group; one member to serve for one, two, three and four years, respectively, and two members to serve for five and six years, respectively, where there are four counties in the group; one member to serve for one year, and one for two years, and two members for three, four, five and six years, respectively, where there are five counties in the group: Provided, also, that any vacancies in such board may be filled by the boards of county commissioners for the unexpired term, unless the vacancy is for the office of member at large, in which case the vacancy shall be filled for the unexpired term by the commissioners of all the counties of the group at a joint meeting. In all counties having health officers, such health officer shall, in addition to the other members, be ex officio members of such board of managers. Women shall be eligible for election to such board of managers. The compensation for such board shall be the same as that of the county commissioners. (1925, c. 154, s. 4.)

**§ 131-40. Appointment of trustees; vacancies; terms of office.** — In the event said election shall have been carried in favor of said county tubercular hospital, the board of commissioners for the county in which election shall have been held shall within 30 days after a declaration of such result of such election, appoint a board of trustees for said county tubercular hospital, consisting of 12 residents of said county, three of whom shall be physicians regularly practicing in said county, and three others of said trustees shall be women. Said trustees shall be appointed in four classes, one class to serve for one year, another for two years, another for three years, and the other for four years; thereafter as their successors are appointed or elected, the term of office of such successors, except unexpired vacancies, shall be for four years. The successors of such trustees shall be appointed by the chairman of the board of commissioners for said county, the county superintendent of health, the clerk of the superior court of said county, and the mayor of the municipality constituting the county seat of said county acting jointly, and by a majority vote. Vacancies in the offices of such trustees shall be filled by the same body of public officers last mentioned. (1927, c. 208, s. 2.)

**§ 131-50. Terms of office of members elected from local boards; county health officer to be ex officio member of board.** — Membership on the board of managers of members of the board elected from boards of town or county commissioners shall coincide with their term of office as such commissioners; but shall not exceed two years. The remaining three members of the board of managers shall be elected for a term of four years each. In all counties having a health officer, such health officer, in addition to the five elective members, shall be ex officio member of such board of managers, but shall have no vote except in case of a tie. Women shall be eligible to the board of managers. The members of the board of managers shall receive no compensation. Any vacancy in said board occurring at any time shall be filled by the board or boards of commissioners making the original appointment. (1939, c. 293, s. 5.)

**§ 134-2. Management and control of schools and institutions for juveniles.** — The Stonewall Jackson Manual Training and Industrial School located at Concord, North Carolina, which was created by act of the General Assembly of 1907 and thereafter operated by a board of trustees, shall be hereafter known and designated as "Stonewall Jackson School"; the State Home and Industrial School for Girls located at Eagle Springs, North Carolina, which was created by act of the General Assembly of 1917 and thereafter operated under a board of managers, shall be hereafter known and designated as "Samarkand Manor School"; the Industrial Farm Colony for Women, sometimes known as Dobb's Farm, located at Kinston, North Carolina, which was created by act of the General Assembly of 1927 and thereafter operated under a board of directors, shall be hereafter known as "Dobb's School for Girls"; the Eastern Carolina Industrial Training School for Boys located at Rocky Mount, North Carolina, which was created by act of the General Assembly of 1923 and thereafter operated by a board of trustees, shall be hereafter known as "Richard T. Fountain School"; the Morrison Training School at Hoffman, North Carolina, created by act of the 1921 General Assembly and thereafter operated by a board of directors, shall hereafter be known as "Cameron Morrison School"; and the said five schools together with the Samuel Leonard School, located at McCain, North Carolina, the Juvenile Evaluation Center located at Swannanoa, N.C., and the C.A. Dillon School located at Butner, N.C., shall hereafter be and remain under the management and administrative control of the State Department of Correction, and the said State Department of Correction shall succeed to, exercise, and perform all the powers and duties heretofore granted by legislative act, assumed, or otherwise exercised by the respective boards of directors, trustees and managers of the aforesaid schools and institutions and each of the said powers and duties shall hereafter be exercised and performed at each of the said schools and institutions by the State Department of Correction. The Department shall be responsible for the management of the said schools and institutions and the distribution of appropriations for the maintenance, permanent enlargement and repair thereof, subject to the provisions of the Executive Budget Act, and said Department shall make reports to the Governor annually and oftener if called for by him, of the condition of each of the said schools and institutions and shall make biennial reports to the Governor to be transmitted by him to the General Assembly of all moneys received and disbursed in the operation of each of said schools. The State Department of Correction shall administer said schools and institutions in such a manner as to best promote the interest of the delinquent boys and girls committed to its care and the said Board may transfer individual students from one school to another but may not authorize the consolidation or abandonment of any of the said schools. The said Department shall retain possession and administrative control over the physical assets of the said schools and institutions together with all lands, buildings, improvements and properties appertaining thereto and it is authorized and empowered to do all things reasonably necessary in connection therewith for the care, supervision and training of the boys and girls of all races committed to its care. (1947, c. 226; 1963, c. 914, s. 4; 1969, c. 837, s. 4; cc. 901, 1279; 1971, c. 1169; 1973, c. 1262, s. 10.)

**§ 134-15. Delivery to institution.** — It shall be the duty of the authorities from which the person is sent to the State Department of Correction by any court to see that such person is safely and duly delivered to the school, institution or agency to which assigned by the Department and to pay all expenses incident to his or her conveyance and delivery to the said school, institution or agency. If the offender be a girl, she must be accompanied by a woman approved by the committing court. (1947, c. 226; 1961, c. 186; 1971, c. 1169; 1973, c. 1262, s. 10.)

**§ 143-423. Declaration of policy.**—It is hereby declared to be the policy of the State of North Carolina to develop the most efficient utilization of the skills of all its citizens. To this end, it is appropriate that the State make provision for the continuing review of the education and employment of women in North Carolina in relation to current needs. (1967, c. 1027, s. 1.)

**§ 143-424. Commission continued; composition; appointment and terms of members.**—The North Carolina Commission on the Education and Employment of Women, hereinafter called the Commission, shall continue its study, composed of seven members, all appointed by the Governor, with a wide range of interests. Four members shall be appointed for an initial term of one year, three members shall be appointed for an initial term of two years, all shall be appointed for two-year terms thereafter. (1967, c. 1027, s. 2.)

**§ 143-426. Duties generally.** — The Commission shall meet, study, plan and advise with the Governor, the departments of the State, and the State legislature and shall make such recommendations as it deems proper concerning the education and employment of women in the State of North Carolina. (1967, c. 1027, s. 4.)

**§ 147-32. Compensation for widows of Governors.**—All widows of Governors of the State of North Carolina, who shall make written request therefor to the Director of the Budget, shall be paid the sum of three thousand dollars ($3,000.00) per annum, in equal monthly installments, out of the State treasury upon warrants duly drawn thereon. Provided, that such compensation shall terminate upon the subsequent remarriage of such person. (1937, c. 416; 1947, c. 897, ss. 1, 2; 1955, c. 1314.)

**§ 148-6. Custody, employment and hiring out of convicts.**—The State Department of Correction shall provide for receiving, and keeping in custody until discharged by law, all such convicts as may be now confined in the prison and such as may be hereafter sentenced to imprisonment therein by the several courts of this State. The Department shall have full power and authority to provide for employment of such convicts, either in the prison or on farms leased or owned by the State of North Carolina, or elsewhere, or otherwise; and may contract for the hire or employment of any able-bodied convicts upon such terms as may be just and fair; but such convicts so hired, or employed, shall remain under the actual management control and care of the Department: Provided, however, that no female convict shall be worked on public roads or streets in any manner. (1895, c. 194, s. 5; 1897, c. 270; 1901, c. 472, ss. 5, 6; Rev., s. 5391; C. S., s. 7707; 1925, c. 163; 1933, c. 172, s. 18; 1957, c. 349, s. 10; 1967, c. 996, s. 13.)

## Article 3.

*Labor of Prisoners.*

**§ 148-26. State policy on employment of prisoners.** — (a) It is declared to be the public policy of this State to provide diversified employment for all able-bodied inmates of the State prison system in work for the public benefit that will reduce the cost of their keep while enabling them to acquire or retain skills and work habits needed to secure honest employment after their release.

(b) Repealed by Session Laws 1971, c. 193.

(c) As many of the male prisoners available and fit for forestry work shall be employed in the development and improvement of state-owned forests as can be used for this purpose by the agencies controlling these forests.

(d) The remainder of the able-bodied inmates of the State prison system shall be employed so far as practicable in prison industries and agriculture, giving preference to the production of food supplies and other articles needed by state-supported institutions or activities.

**§ 148-27. Women prisoners; limitations on labor of prisoners.**—The State Department of Correction may provide suitable quarters for women prisoners and arrange for work suitable to their capacity; and the several courts of the State may assign women convicted of offenses, whether felonies or misdemeanors, to these quarters. No woman prisoner shall be assigned to work under the supervision of the State Department of Correction whose term of imprisonment is less than six months, or who is under sixteen years of age. (1931, c. 145, s. 32; 1933, c. 39; c. 172, s. 18; 1935, c. 257, s. 3; 1943, c. 409; 1953, c. 1230; 1957, c. 349, s. 10; 1967, c. 996, s. 13.)

**§ 148-30. Sentencing to public roads.** — In all cases not provided for in G.S. 148-28 and 148-32 the courts sentencing defendants to imprisonment with hard labor shall sentence such prisoners to jail, to be assigned to work under the State Department of Correction, and the clerks of the several courts in which such sentences are pronounced shall notify the superintendent of the nearest highway prison camp, or such other agent of the Department as he may be advised by them is the proper person to receive such notice. Whereupon, the Department shall cause some duly authorized agent thereof to take such prisoners into custody, with the proper commitments therefor, and deliver them to such camp or station as the proper authorities of the Department shall designate: Provided, however, the Department shall not be required to accept any prisoner from any court inferior to the superior court when an appeal has been taken to the superior court, or when the judge of such inferior court shall retain control over the sentence for the purpose of modifying or changing the same. No male person shall be so assigned whose term of imprisonment is less than 30 days. (1933, c. 172, s. 8; 1943, c. 409; 1957, c. 349, s. 10; 1967, c. 996, s. 13.)

**§ 148-33. Prison labor furnished other State agencies.** — The State Department of Correction may furnish to any of the other State departments, State institutions, or agencies, upon such conditions as may be agreed upon from time to time between the Department and the governing authorities of such Department, institution or agency, prison labor for carrying on any work where it is practical and desirable to use prison labor in the furtherance of the purposes of any State department, institution or agency, and such other employment as is now provided by law for inmates of the State's prison under the provisions of G.S. 148-6: Provided that such prisoners shall at all times be under the custody of and controlled by the duly authorized agent of such Department. Provided, further, that notwithstanding any provisions of law contained in this Article or in this Chapter, no male prisoner or group of male prisoners may be assigned to work in any building utilized by any State department, agency, or institution where women are housed or employed unless a duly designated custodial agent of the Secretary of Correction is assigned to the building to maintain supervision and control of the prisoner or prisoners working there. (1933, c. 172, s. 30; 1957, c. 349, s. 10; 1961, c. 966; 1967, c. 996, ss. 13, 15; 1973, c. 1262, s. 10.)

**§ 148-44. Separation as to sex and age.** — The Department shall provide quarters for female prisoners separate from those for male prisoners; and shall provide for separate facilities for youthful offenders as required by G.S. 15-210 to 15-215. (1933, c. 172, s. 25; 1947, c. 262, s. 2; 1957, c. 349, s. 10; 1963, c. 1174, s. 2.)

**§ 148-47. Disposition of child born of female prisoner.**—Any child born of a female prisoner while she is in custody shall as soon as practicable be surrendered to the director of public welfare of the county wherein the child was born upon a proper order of the domestic relations court or juvenile court of said county affecting the custody of said child. When it appears to be for the best interest of the child, the court may place custody beyond the geographical bounds of Wake County: Provided, however, that all subsequent proceedings and orders affecting custody of said child shall be within the jurisdiction of the proper court of the county where the infant is residing at the time such proceeding is commenced or such order is sought: Provided, further, that nothing in this section shall affect the right of the mother to consent to the adoption of her child nor shall the right of the mother to place her child with the legal father or other suitable relative be affected by the provisions of this section. (1933, c. 172, s. 28; 1955, c. 1027; 1961, c. 186.)

**§ 153A-228. Separation of sexes.** — Male and female prisoners shall be confined in separate facilities or in separate quarters in local confinement facilities. (1967, c. 581, s. 2; 1973, c. 822, s. 1.)

**§ 153A-257. Legal residence for social service purposes.** — (a) Legal residence in a county determines which county is responsible (i) for financial support of a needy person who meets the eligibility requirements for a public assistance or medical care program offered by the county or (ii) for other social services required by the person.

Legal residence in a county is determined as follows:

(1) Except as modified below, a person has legal residence in the county in which he resides.

(2) If a person is in a hospital, mental institution, nursing home, boarding home, confinement facility, or similar institution or facility, he does not, solely because of that fact, have legal residence in the county in which the institution or facility is located.

(3) A minor has the legal residence of the parent or other relative with whom he resides. If the minor does not reside with a parent or relative and is not in a foster home, hospital, mental institution, nursing home, boarding home, educational institution, confinement facility, or similar institution or facility, he has the legal residence of the person with whom he resides. Any other minor has the legal residence of his mother, or if her residence is not known then the legal residence of his father; if his mother's or father's residence is not known, the minor is a legal resident of the county in which he is found.

(b) A legal residence continues until a new one is acquired, either within or outside this State. When a new legal residence is acquired, all former legal residences terminate.

(c) This section is intended to replace the law defining "legal settlement." Therefore any general law or local act that refers to "legal settlement" is deemed to refer to this section and the rules contained herein. (1777, c. 117, s. 16, P. R.; R. C., c. 86, s. 12; Code, s. 3544; Rev., s. 1333; C. S., s. 1342; 1931, c. 120; 1943, c. 753, s. 2; 1959, c. 272; 1973, c. 822, s. 1.)

**§ 162-46. Deductions from sentence allowed for good behavior.** — When a convict has been sentenced to work upon the public works of a county, and has faithfully performed the duties assigned to him during his term of sentence, he is entitled to a deduction from the time of his sentence of five days for each month, and he shall be discharged from the county works when he has served his sentence, less the number of days he may be entitled to have deducted. The authorities having him in charge shall be the sole judges as to the faithful performance of the duties assigned to him. Should he escape or attempt to escape he shall forfeit and lose any deduction he may have been entitled to prior to that time. This section shall apply also to women sentenced to a county farm or county home. (1913, c. 167, s. 1; C. S., s. 1360; ~~1973~~, c. 822, s. 3.)

# CONSTITUTIONAL PROVISIONS

## AMENDMENT XIV.

§ 1. All persons born or naturalized in the United States, and subject to the jurisdiction thereof, are citizens of the United States and of the state wherein they reside. No state shall make or enforce any law which shall abridge the privileges or immunities of citizens of the United States; nor shall any state deprive any person of life, liberty, or property, without due process of law; nor deny to any person within its jurisdiction the equal protection of the laws.

## Article I.

Sec. 19. *Law of the land; equal protection of the laws.* No person shall be taken, imprisoned, or disseized of his freehold, liberties, or privileges, or outlawed, or exiled, or in any manner deprived of his life, liberty, or property, but by the law of the land. No person shall be denied the equal protection of the laws; nor shall any person be subjected to discrimination by the State because of race, color, religion, or national origin.

~~Sec.~~ 26. *Jury service.* No person shall be excluded from jury service on account of sex, race, color, religion, or national origin.

## Article X.

Sec. 2. *Homestead exemptions.*

~~(3)~~ *Exemption for benefit of widow.* If the owner of a homestead dies, leaving a widow but no children, the homestead shall be exempt from the debts of her husband, and the rents and profits thereof shall inure to her benefit during her widowhood, unless she is the owner of a homestead in her own right.

(4) *Conveyance of homestead.* Nothing contained in this Article shall operate to prevent the owner of a homestead from disposing of it by deed, but no deed made by the owner of a homestead shall be valid without the signature and acknowledgement of his wife.

Sec. 4. ~~*Property*~~ *of married women secured to them.* The real and personal property of any female in this State acquired before marriage, and all property, real and personal, to which she may, after marriage, become in any manner entitled, shall be and remain the sole and separate estate and property of such female, and shall not be liable for any debts, obligations, or engagements of her husband, and may be devised and bequeathed and conveyed by her, subject to such regulations and limitations as the General Assembly may prescribe. Every married woman may exercise powers of attorney conferred upon her by her husband, including the power to execute and acknowledge deeds to property owned by herself and her husband or by her husband.